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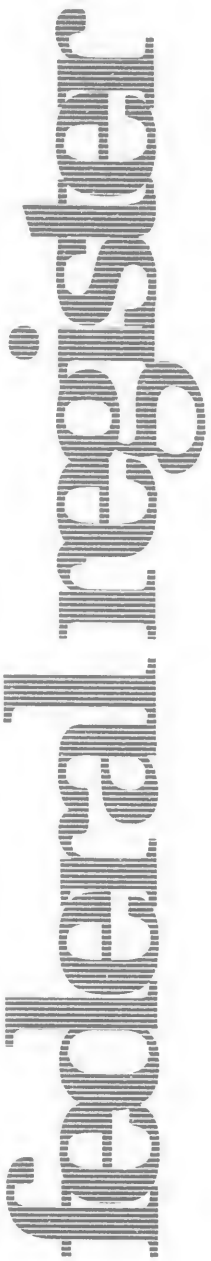

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Presidential Documents

Title 3—

The President

Proclamation 7109 of July 20, 1998

Captive Nations Week, 1998

By the President of the United States of America

A Proclamation

Freedom, dignity, equality, and justice: these are words sacred to the American people. They define our lives as citizens of a democratic Nation, and they sum up our hopes for all the peoples of the world. More than 2 centuries ago, our founders articulated these fundamental human rights in the Declaration of Independence, proclaiming the truth of human dignity and the idea that governments derive their power and legitimacy from the consent of the people they serve. We reaffirmed these convictions with the ratification of our Constitution and the Bill of Rights. And 50 years ago, more than four dozen nations joined us in championing these rights and liberties across the globe by adopting the Universal Declaration of Human Rights, which the United Nations General Assembly passed unanimously in December of 1948.

Over the course of the last half-century, the Universal Declaration's call to "expand the circle of full human dignity to all people" has been a wellspring of inspiration. The Declaration has served as a framework for laws, constitutions, and other important efforts to safeguard basic liberties, as well as a yardstick for measuring progress. However, while democracy continues to grow and flourish around the world and millions enjoy fundamental human rights unencumbered by tyranny or restraint, the shadow of oppression still lingers.

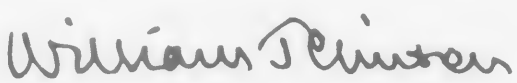
The last decade has seen a remarkable transformation. The courage, strength, and determination of men and women struggling for liberty have changed the political landscape of the world. Demòcracy has blossomed and deepened its roots in many countries, particularly in Central and Eastern Europe and the nations of the former Soviet Union. But, the process of building democracy and strengthening civil society in these nations is far from complete. Moreover, there are countries in Europe and elsewhere where democracy is actively being undermined by authoritarian rule and disrespect for the rule of law. In these regions around the world, people are denied the right to worship freely, speak their thoughts openly, or live without fear of sudden arrest, arbitrary imprisonment, or brutal treatment. The rulers of these captive nations, in denying the tide of freedom rising across the globe, have positioned themselves on the wrong side of history.

This year marks the 40th observance of Captive Nations Week. For four decades these proclamations have served to express America's solidarity with people suffering under communist and other oppressive rule around the world. It is important that we continue to mark this annual observance as a reminder that building and nurturing democracy is an enduring struggle while there are still people in various parts of the world who are captives of tyranny.

The Congress, by Joint Resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim July 19 through July 25, 1998, as Captive Nations Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities and to rededicate ourselves to supporting the cause of freedom, human rights, and self-determination for all the peoples of the world.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.



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Rules and Regulations

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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 20, 32, 35, 36, and 39

RIN 3150–AF46

Minor Corrections, Clarifying Changes, and a Minor Policy Change

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to make minor corrections and clarifying changes to the NRC's 10 CFR Part 20, "Standards for Protection Against Radiation." The final rule is also intended to conform other regulations with the Commission's 1991 revised radiation protection requirements. In addition, the final rule includes a minor policy change that raises the monitoring criteria for minors from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) in a year and for declared pregnant women from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) during their pregnancies. The 0.1 rem (1 mSv) in a year deep dose equivalent monitoring criterion is consistent with the public dose limit and represents a quantity more consistent with the measurement sensitivity of individual personnel dosimetry. Licensees are still required to ensure that the occupational dose limit of 0.5 rem (5 mSv) in a year is not exceeded for minors, that the dose limit of 0.5 rem (5 mSv) to an embryo/fetus due to occupational exposure of a declared pregnant woman is not exceeded during the course of the pregnancy, and that sufficient effort is made to ensure that substantial variations above a uniform monthly exposure rate for a declared pregnant woman are avoided. These changes to the threshold for monitoring exposures to radiation and radioactive material to demonstrate compliance with the limits do not change the occupational dose limits for minors or declared pregnant workers.

EFFECTIVE DATE: This regulation becomes effective on August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Jayne M. McCausland, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415–6219, e-mail JMM2 @ nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

On May 21, 1991 (56 FR 23360), a final rule was published in the **Federal Register** that amended 10 CFR Part 20 to update the NRC's "Standards for Protection Against Radiation." Subsequent amendments were published to (1) change the mandatory implementation to January 1, 1994, and make conforming changes to the text to reflect the new implementation date (57 FR 38588; August 26, 1992), (2) remove or modify provisions to reflect the new implementation date for NRC's revised "Standards for Protection Against Radiation" (58 FR 67657; December 22, 1993), and (3) restore provisions inadvertently removed or modified (59 FR 41641; August 15, 1994; and 60 FR 20183; April 25, 1995).

Since then, several inconsistencies have come to light. The Nuclear Regulatory Commission (NRC) is amending its regulations regarding standards for protection against radiation to make minor corrections and clarifying changes that will remove the inconsistencies and further facilitate implementation. This final rule also establishes conforming amendments to 10 CFR Parts 32, 35, 36, and 39. In addition, a minor policy change raises the monitoring criteria for minors from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) in a year and for declared pregnant women from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) during their pregnancies.

II. Background

On October 7, 1996, the NRC published a proposed rule for comment in the **Federal Register** (61 FR 52388) to amend 10 CFR Part 20 of its regulations to make minor corrections and clarifying changes regarding standards for protection against radiation; to conform other 10 CFR Parts with the Commission's revised radiation protection requirements; and to revise the deep dose equivalent monitoring criteria for minors from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) in a year and for declared pregnant women from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) during their pregnancies. The proposed rule noted that the monitoring criteria would not raise the dose limit for an embryo/fetus due to occupational dose to the declared pregnant woman or the dose limit for minors. Changing the criteria for monitoring does not, in any way, change the dose limits for declared pregnant women, for the embryo/fetus, or for minors. The 0.1 rem (1 mSv) in a year deep dose equivalent monitoring criterion is consistent with the public dose limit and represents a quantity more consistent with the measurement sensitivity of individual personnel dosimetry. The current criteria of 0.05 rem (0.5 mSv), if received uniformly in a year or throughout the gestation period, would result in an average monthly dose of less than 0.005 rem (0.05 mSv). The most routinely utilized individual monitoring devices cannot accurately measure doses below 0.01 rem (0.1 mSv), which is greater than the average monthly dose of 0.005 rem (0.05 mSv).

The public comment period closed on December 23, 1996. A discussion of the issues raised by public comment is covered in Section IV, below.

III. Summary of Final Rule

This final rule makes the following changes:

(1) In § 20.1003, "Definitions," clarifying changes and minor corrections are made to the following:

(a) The definition of "Declared pregnant woman" is revised to specify that the written declaration of pregnancy is to be given to the licensee rather than the employer, unless the employer is also the licensee. This is necessary to ensure that the entity responsible for work assignments involving radiation exposure (the

licensee) is aware of the declaration of pregnancy to facilitate timely and appropriate protective action. The change also specifies that the declaration, as well as associated dose restrictions, remains in effect until it is withdrawn in writing or until the woman is no longer pregnant. The determination that a declared pregnant woman is no longer pregnant should be based on a discussion between the declared pregnant woman and the licensee.

(b) The definitions of "High radiation area" and "Very high radiation area" are revised to make it clear that these area designations exist solely to note radiation levels from sources external to an individual who may receive the dose.

(c) The definition of "Individual monitoring devices" is revised to correct the misuse of the term thermoluminescent to describe thermoluminescence dosimeters.

(d) The term "Lens dose equivalent (LDE)" replaces "Eye dose equivalent" (EDE) to avoid confusion between the initialisms for dose to the lens of the eye and effective dose equivalent (EDE). This should pose no procedural burden on licensees because the required NRC Forms 4 and 5 for records and reports were revised in August 1995 to reflect the new terminology, and these or their equivalent are required to be used by existing § 20.2104, § 20.2106(c), and § 20.2206(b).

(2) In § 20.1101(b), the word "practicable" is changed to "practical" to remove the basis for an incorrect perception among some licensees that, by using the word "practicable" in this section, the NRC is requiring licensees to use any dose averting technique that is capable of being used even if the technique is unproven or impractical.

(3) In §§ 20.1201(a)(2)(i) and (c); 20.1203; 20.2101; 20.2106(a)(1); and 20.2202(a)(1)(ii) and (b)(1)(ii), "eye dose equivalent" is replaced by "lens dose equivalent" as described above in the change to § 20.1003.

(4) In § 20.1206, Planned special exposures, paragraph (a) is revised to clarify what was intended by the term "higher exposure" used in the rule previously. The phrase applies to dose estimates performed prior to authorizing the planned special exposure (PSE). The new wording states that PSE's are authorized only in exceptional situations when alternatives that might avoid the dose estimated to result from the PSE are unavailable or impractical. Improved clarification will avoid possible misinterpretation of a PSE criterion.

(5) In § 20.1208(a), (c), (c)(2), and (d), the phrase "dose to an embryo/fetus" is changed to read "dose equivalent to the embryo/fetus" to make it clear that the dose limit specifically applies to the dose equivalent, which is the technically correct term to denote effect of dose to an organ.

(6) In § 20.1501(a)(2)(i), the phrase "The extent of radiation levels; * * *" is revised to read "The magnitude and extent of radiation levels; * * *" to clarify the intended meaning that surveys should evaluate both the area covering the dose field as well as the amount of dose in that area.

(7) In § 20.1501(a)(2)(iii), the phrase "The potential radiological hazards that could be present" is revised to read "The potential radiological hazards" in order to remove redundancy.

(8) In § 20.1502, the words "from licensed and unlicensed radiation sources under the control of the licensee" are added after "exposure to radiation" in paragraph (a) to improve clarity and to make it clear that, in determining whether or not monitoring is required, a licensee need not take into account sources of radiation not under its control. It should be noted that, although the criterion for monitoring includes only radiation from sources under the control of the licensee, occupational dose includes dose from licensed and unlicensed material, whether in the possession of the licensee or other person.

(9) In § 20.1502(a)(2) and (b)(2), monitoring requirements for minors and pregnant women are revised. In addition, for minors the dose limits referenced in paragraph (a)(2) apply for an entire year, while for a declared pregnant woman the dose limit referenced in paragraph (b)(2) applies only to the 9-month gestation period. These paragraphs are separated and revised accordingly to make this section consistent with § 20.1208 and technically correct. The criteria for monitoring the deep dose equivalent are changed for minors from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) in a year and for declared pregnant women from 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) during their pregnancies. Changing the criteria for monitoring does not, in any way, change the dose limits for declared pregnant women, for the embryo/fetus, or for minors. This change constitutes a small licensee burden reduction while maintaining the current adequate level of protection of health and safety of minors and declared pregnant women. The 0.1 rem (1 mSv) in a year deep dose equivalent monitoring criterion is consistent with the public dose limit and represents a quantity more consistent with the measurement sensitivity of individual personnel dosimetry. This value also is consistent with the 100 mrem (1 mSv) training criterion in revised § 19.12 (60 FR 36038; July 13, 1995).

Licensees are still required to ensure that the occupational dose limits for minors in § 20.1207 are not exceeded, that the dose limit of 0.5 rem (5 mSv) to the embryo/fetus from occupational dose to the declared pregnant woman is not exceeded during the course of the pregnancy, and that sufficient effort is made to ensure that substantial variations above a uniform monthly exposure rate for a declared pregnant woman are avoided. All of the occupational dose limits in § 20.1201 continue to be applicable to the declared pregnant woman as long as the embryo/fetus dose limit is not exceeded. Note that the monitoring criteria for lens dose equivalent and shallow dose equivalent for skin and extremities continue to apply to determining the occupational exposure of declared pregnant women even though they are not applicable to the embryo/fetus.

(10) The proposed change to the posting requirement in § 20.1902(d), "Posting of Airborne Radioactivity Area," has not been adopted because the Commission has determined that the benefit achieved from replacing signs to use more precise terminology is outweighed by the cost to the licensees to comply with the proposed change. This issue does not have any health and safety implications and was proposed only to make an acceptable term more precise.

(11) In § 20.1903, a new paragraph is added to exempt teletherapy rooms in a hospital from posting requirements as long as access is controlled by the licensee to prevent the exposure of workers, other patients, and members of the public to radiation. The purpose of this change is to bring the regulation into conformity with existing licensing practices which are intended to avoid the unwarranted and potentially unsettling effect that "GRAVE DANGER, VERY HIGH RADIATION AREA" signs may have on patients undergoing medical treatment.

(12) In § 20.1906(d), a revision requires licensees to notify the NRC Operations Center instead of an NRC Regional Office when, upon receiving and opening packages, radiation levels exceed regulatory limits. This provides for consistency by having all prompt notification requirements direct licensees to contact a single location. A conforming change also is made to the notification requirements in § 20.2202.

(13) In § 20.2101, a revision permits licensees to add the new SI units to the old (special) units of dose on records

required by this part. Each of the recorded dose quantities is to be recorded in the appropriate special unit and, if so desired, followed by the appropriate SI unit in parentheses.[1] The term "eye dose equivalent" is replaced by "lens dose equivalent" as discussed under the amendment to § 20.1003.

(14) In § 20.2106 (a)(2) and (a)(3), the references to "body burden" are removed because this term is obsolete. Section 20.2106(a)(4) is revised by adding a reference to § 20.1204(a), that requires licensees to take measurements of (1) concentrations of radioactive materials in air in work areas, or (2) quantities of radionuclides in the body, or (3) quantities of radionuclides excreted from the body, or (4) combinations of these measurements in order to determine internal dose when required by § 20.1502 to monitor internal dose. This, in effect, uses recorded concentrations of radioactive material in air, quantities of radioactive material determined to be in the body or excreta, or any combination of these that would be needed, for assessing the committed effective dose equivalent (CEDE). The NRC believes that this information is necessary to support the recorded results of the licensee's calculation of CEDE. Adding this reference would not impose any additional recordkeeping burden on licensees because they are required to obtain this information in order to calculate CEDE under § 20.1204.

(15) A revision to § 20.2202(d) results in the application of the same incident reporting requirements to all licensees. Previously, this section required that all licensees with an installed Emergency Notification System make reports to the NRC Operations Center, but all other licensees must submit both a telephone report to the NRC Operations Center and a telegram, mailgram, or facsimile to the Regional Office. This change now requires all licensees to report incidents by telephone to the NRC Operations Center to ensure consistency in the prompt notification requirements contained elsewhere in this part and results in a reduction in the information collection burden.

(16) In § 32.54(a), the reference to "§ 20.203(a)" is corrected to read "§ 20.1901."

(17) The proposed change has not been adopted in § 35.20 because this issue is being addressed as part of a major revision to 10 CFR Part 35.

(18) Safety precautions and survey requirements for restricted and unrestricted areas are specified in §§ 35.315, 35.415, 35.641, and 35.643. The proposed changes to §§ 35.315(a)(4) and 35.415(a)(4) have not been adopted because these issues are being addressed as part of a major revision to 10 CFR Part 35. Sections 35.641(a)(2)(i) and (a)(2)(ii) and 35.643(a) are revised to be consistent with the dose limits for occupationally exposed individuals and members of the public. Also, in § 35.643(a)(1), a misreference to § 20.1301(c) is corrected to read § 20.1301. The 0.5 rem (5 mSv) limit specified in § 20.1301(c) was never intended to be required under this section in Part 35. Rather, it was always the intent of the NRC to apply the 0.1 rem (1 mSv) limit in § 20.1301(a) to this section, with a provision for licensees to request the 0.5 rem (5 mSv) limit specified in § 20.1301(c).

(19) In § 36.23(g), posting requirements for a panoramic irradiator are revised to conform with posting requirements for high or very high radiation areas in § 20.1902. The previous posting requirements in Part 36 required a posting appropriate to a high radiation area only, which may not be appropriate for all panoramic irradiators.

(20) In § 39.33, "Radiation detection instruments," a conforming change to paragraph (a) is made by replacing the term milliroentgens with the terms millisieverts (mSv) and millirem (mrem) to be consistent with revised Part 20 terminology. However, the NRC recognizes that most licensees may still use radiation detection instruments that measure radiation in units of roentgens. Measurements taken in roentgens may continue to be recorded in terms of the roentgen, provided that the measurements can be readily converted to rem for records required under 10 CFR Part 20.2101(a).

(21) In § 39.71(b), the reference to "§ 20.3" is corrected to read "§ 20.1003."

Appropriate conforming changes to regulatory guides such as 8.7, 8.13, 8.34, 8.35, and 8.36 are under consideration by the Commission.

One matter in the proposed rule was not adopted. The proposed rule would have changed the term "Airborne radioactivity area" to "Airborne Radioactive Material Area" because it is more precise language. While the Commission recognizes that the current language is somewhat imprecise, it has determined that the burden imposed on licensees to revise procedures and change signs would outweigh any benefits. In addition, the proposed change to this term does not constitute a health and safety improvement. The proposed conforming changes to §§ 20.1203 and 20.1902(d) also have not been adopted.

IV. Analysis of Public Comments and Staff Response

Four letters of public comment were received on the proposed rule. Comments were received from the Council on Radionuclides and Radiopharmaceuticals, Inc., the Nuclear Energy Institute, Commonwealth Edison Company, and the U.S. Department of Health and Human Services.

Several suggestions for additional changes in 10 CFR Part 20 were submitted and have been referred to the appropriate program offices for consideration. Comments specific to the scope of issues addressed by this rulemaking and the NRC staff's response are as follows:

One commenter observed that frequent minor changes to the regulations require licensees to make numerous changes to written procedures and training content, thus constituting a burden. It was observed by the commenter that the costs of revising procedures and training programs in response to a minor rulemaking such as this can range from $12,000.00 to $20,000.00 per licensee site in the nuclear power industry. In response to this comment, and others, the proposed change in terminology from "Airborne radioactivity area" to "Airborne radioactive material area" has been deleted in this final rule. Although supported by the comments, it was also criticized as a change having associated costs and little benefit. The NRC staff agrees that the costs outweigh the benefit and has removed this proposed change from the final rule. The regulatory analysis contained in Section VIII now reflects this adjustment in cost estimate and concludes that the benefits of improved clarity and consistency in NRC regulations remaining in this final rule will offset any remaining costs.

Similar comments regarding costs and limited benefit were received regarding the proposed change to lens dose equivalent (LDE), and one commenter suggested that NRC Forms 4 and 5 should be revised to use the new term, "lens dose equivalent (LDE)." The NRC staff believes any costs incurred by licensees to implement this change in terminology would be minimal since the required NRC Forms 4 and 5 have already been revised to reflect the new terminology and have been used by licensees since August 1995.

[1] Part 20 was implemented prior to the NRC's Statement of Policy on Conversion to the Metric System (61 FR 31169); therefore, in order to be consistent with the approach used in Part 20 in its presentation of dual units, this rule does not follow the NRC's metrication policy which supports presenting the SI units first, followed by the English (or special) units shown in brackets.

Several suggestions were received regarding the definition and meaning of total effective dose equivalent (TEDE) and effective dose equivalent (EDE). Revision of 10 CFR Part 20, based on the recent ICRP–60 publication, was recommended. These suggestions, though having merit, go far beyond the scope of this clarifying rulemaking and will be held for future consideration.

Several commenters agreed that the declaration of pregnancy must go to the licensee, rather than the employer, as the party responsible for taking timely protective action. Guidance was requested on how licensees could determine the duration of pregnancy and thus, how long dose restrictions would remain in effect. The Commission suggests that licensees establish an appropriate duration of restriction based on discussion with the declared pregnant worker. However, it is not the Commission's intent to require activities which might violate the individual's right to privacy.

One commenter suggested that an important reason for increasing the monitoring threshold for minors and declared pregnant women to 100 mrem (1 mSv) was the difficulty in measuring 50 mrem (0.5 mSv) in a year or during the gestation period. The NRC agrees and considered this in the adoption of the final rule change.

Another commenter observed that the change in the monitoring threshold for minors and declared pregnant women will reduce unnecessary burden on licensees while maintaining the current adequate level of protection of health and safety.

One commenter suggested that consistency with the public dose limit of 100 mrem (1 mSv) is not adequate justification for changing the monitoring criteria for minors and declared pregnant women. The NRC did not rely on consistency with the public dose limit as sole justification; however, it lends support to the underlying scientific basis to revise the criteria. Since the public dose limit of 100 mrem (1 mSv) is considered to be an acceptable level of risk for all members of the public, and the occupational dose limit for minors and the dose limit for the embryo-fetus of declared pregnant women is 500 mrem (5 mSv), monitoring for exposures of less than 100 mrem (1 mSv) does not provide an additional level of protection and is not necessary to comply with the dose limits. The final rule requires monitoring of minors and declared pregnant women when it is likely that they would receive over 100 mrem (1 mSv) in 1 year (or during the entire pregnancy).

V. Agreement State Compatibility

This rulemaking will be a matter of compatibility between the NRC and the Agreement States, thereby providing consistency among State and Federal safety requirements. Four categories of compatibility (A through D), as well as a category identifying rules of Health and Safety significance (H&S), have been assigned to portions of this rule. Category A means the provisions affect a basic radiation protection standard or related definitions, signs, labels, or terms necessary for a common understanding of radiation protection that the State should adopt with (essentially) identical language. The NRC has assigned a Category A level of compatibility to the changes to the definitions Declared pregnant woman, High radiation area, Lens dose equivalent (LDE), and Very high radiation area in § 20.1003. Also included under the Category A level of compatibility are the changes to §§ 20.1201 and 20.1208.

Category B means the provisions affect a program element with significant direct transboundary implications that the State should adopt with essentially identical language. The NRC has assigned a Category B level of compatibility to the changes in § 32.54.

Category C means the provisions affect a program element, the essential objectives of which should be adopted by the State to avoid conflicts, duplications or gaps. The manner in which the essential objectives are addressed need not be the same as NRC provided the essential objectives are met. The NRC has assigned a Category C level of compatibility to the changes in §§ 20.1003 (Definition of Individual monitoring devices), 20.2101, 20.2106, 20.2202, 39.33, and 39.71.

Category D means the provisions are not required for purposes of compatibility; however, if adopted by the State, they should be compatible with NRC. The NRC has assigned a Category D level of compatibility to the changes in §§ 20.1101, 20.1206, 20.1501, 20.1502, 20.1903, 20.1906, 35.641, 35.643, and 36.23.

Category H&S means the provisions are not required for compatibility; however, they do have particular health and safety significance. The State should adopt the essential objectives of such provisions in order to maintain an adequate program. The Category H&S has been assigned to the changes in §§ 20.1101, 20.1501, 20.1502, 20.1906, and 36.23.

VI. Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in the categorical exclusion in 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

VII. Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). These requirements were approved by the Office of Management and Budget, approval number 3150–0014, 3150–0001, 3150–0010, 3150–0158, and 3150–0130.

Because the rule will reduce existing information collection requirements by eliminating written incident reports and allowing licensees to submit incident reports by telephone, the public burden for this information collection is expected to be reduced by approximately 250 hours per year over the entire industry. This reduction includes the time required for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. Send comments on any aspect of this information collection, including suggestions for further reducing the burden, to the Information and Records Management Branch (T–6F33), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, or by Internet electronic mail at BJS1@NRC.GOV; and to the Desk Officer, Office of Information and Regulatory Affairs, NEOB–10202 (3150–0014), Office of Management and Budget, Washington, DC 20503.

Public Protection Notification

If a document used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

VIII. Regulatory Analysis

This final rule makes minor correcting and clarifying amendments to the requirements in 10 CFR Part 20 and conforms 10 CFR Parts 32, 35, 36, and 39 to 10 CFR Part 20. The final rule imposes one-time only, minor additional costs at a maximum of $12,000 per licensee site in the nuclear power industry for changing written procedures and possibly training associated with correcting and clarifying

several definitions and minor changes to requirements addressing standards for protection against radiation. It is expected that the cost for other classes of licensees may be substantially less. The NRC staff believes that the cost of revising procedures will be small and is offset by the benefits of improved clarity and consistency in the NRC's regulations.

The final amendments include a conforming change in 10 CFR Part 36 to make the posting requirements for a panoramic irradiator consistent with posting requirements in 10 CFR Part 20 for high or very high radiation areas. Licensees in compliance with the Part 20 posting requirements are also in compliance with Part 36 posting requirements; therefore, this is a conforming change to make the language in the two sections consistent, and no impact is expected to result from this action.

The final amendments also result in a minor reduction in burden to licensees by eliminating written incident reports and allowing licensees to submit incident reports by telephone. This change is consistent with the Paperwork Reduction Act of 1995.

The final requirements also waive posting requirements in teletherapy rooms in hospitals to remove the unsettling effects that the signs may have on patients. There would be no decrease in safety because the safety precautions in 10 CFR Part 35 are considered adequate to protect individuals from inadvertent exposure to radiation, and this change may have a beneficial effect on patients.

In addition, these final amendments change the deep dose equivalent monitoring requirements for minors and pregnant women from one-tenth of the applicable limit or 0.05 rem (0.5 mSv) to 0.1 rem (1 mSv) for the following reasons:

(1) The value is consistent with the 100 mrem (1 mSv) training criterion in the recently revised 10 CFR 19.12 (60 FR 36038; July 13, 1995).

(2) The value is consistent with the 0.1 rem (1 mSv) dose limit for members of the public in 10 CFR 20.1301(a). There is little benefit to require monitoring of workers who are expected to receive less dose than is permitted for members of the public.

No cost is associated with this rule change, and there may be some reduction in burden. However, any reduction is likely to be small because many factors impact the decision as to whether personal dosimeters will be worn and it is impossible to assess the extent of this burden reduction.

This discussion constitutes the regulatory analysis for this final rule.

IX. Backfit Analysis

The NRC has determined that the backfit rules in §§ 50.109, 72.62, and 76.76 do not apply to this final rule and, therefore, that a backfit analysis is not required for this final rule because these amendments do not involve any provision that would impose backfits as defined in §§ 50.109(a)(1), 72.62(a), and 76.76(a).

Small Business Regulatory Enforcement Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a "major rule" and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects

10 CFR Part 20

Byproduct material, Criminal penalties, Licensed material, Nuclear materials, Nuclear power plants and reactors, Occupational safety and health, Packaging and containers, Radiation protection, Reporting and recordkeeping requirements, Special nuclear material, Source material, Waste treatment and disposal.

10 CFR Part 32

Byproduct material, Criminal penalties, Labeling, Nuclear materials, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

10 CFR Part 36

Byproduct material, Criminal penalties, Nuclear materials, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

10 CFR Part 39

Byproduct material, Criminal penalties, Nuclear materials, Oil and gas exploration—well logging, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 20, 32, 35, 36, and 39.

PART 20—STANDARDS FOR PROTECTION AGAINST RADIATION

1. The authority citation for Part 20 continues to read as follows:

Authority: Secs. 53, 63, 65, 81, 103, 104, 161, 182, 186, 68 Stat. 930, 933, 935, 936, 937, 948, 953, 955, as amended, sec. 1701, 106 Stat. 2951, 2952, 2953 (42 U.S.C. 2073, 2093, 2095, 2111, 2133, 2134, 2201, 2232, 2236, 2297f), secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

2. In § 20.1003, the definition of *Eye dose equivalent* is removed. The definition of *Lens dose equivalent (LDE)* is added in alphabetical order, and the definitions of *Declared pregnant woman, High radiation area, Individual monitoring devices,* and *Very high radiation area* are revised to read as follows:

§ 20.1003 Definitions.

* * * * *

Declared pregnant woman means a woman who has voluntarily informed the licensee, in writing, of her pregnancy and the estimated date of conception. The declaration remains in effect until the declared pregnant woman withdraws the declaration in writing or is no longer pregnant.

* * * * *

High radiation area means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving a dose equivalent in excess of 0.1 rem (1 mSv) in 1 hour at 30 centimeters from the radiation source or 30 centimeters from any surface that the radiation penetrates.

* * * * *

Individual monitoring devices (individual monitoring equipment) means devices designed to be worn by a single individual for the assessment of dose equivalent such as film badges, thermoluminescence dosimeters (TLDs), pocket ionization chambers, and personal ("lapel") air sampling devices.

* * * * *

Lens dose equivalent (LDE) applies to the external exposure of the lens of the eye and is taken as the dose equivalent at a tissue depth of 0.3 centimeter (300 mg/cm^2).

* * * * *

Very high radiation area means an area, accessible to individuals, in which radiation levels from radiation sources external to the body could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in 1 hour at 1 meter from a radiation source or 1 meter from any surface that the radiation penetrates.

* * * * *

3. In § 20.1101, paragraph (b) is revised to read as follows:

§ 20.1101 Radiation protection programs.

* * * * *

(b) The licensee shall use, to the extent practical, procedures and engineering controls based upon sound radiation protection principles to achieve occupational doses and doses to members of the public that are as low as is reasonably achievable (ALARA).

* * * * *

4. In § 20.1201, paragraphs (a)(2)(i) and (c) are revised to read as follows:

§ 20.1201 Occupational dose limits for adults.

(a) * * *

(2) * * *

(i) A lens dose equivalent of 15 rems (0.15 Sv), and

* * * * *

(c) The assigned deep-dose equivalent and shallow-dose equivalent must be for the part of the body receiving the highest exposure. The deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent may be assessed from surveys or other radiation measurements for the purpose of demonstrating compliance with the occupational dose limits, if the individual monitoring device was not in the region of highest potential exposure, or the results of individual monitoring are unavailable.

* * * * *

5. In § 20.1203, the introductory text is revised to read as follows:

§ 20.1203 Determination of external dose from airborne radioactive material.

Licensees shall, when determining the dose from airborne radioactive material, include the contribution to the deep-dose equivalent, lens dose equivalent, and shallow-dose equivalent from external exposure to the radioactive cloud (see appendix B to part 20, footnotes 1 and 2).

* * * * *

6. In § 20.1206, paragraph (a) is revised to read as follows:

§ 20.1206 Planned special exposures.

* * * * *

(a) The licensee authorizes a planned special exposure only in an exceptional situation when alternatives that might avoid the dose estimated to result from the planned special exposure are unavailable or impractical.

* * * * *

7. In § 20.1208, the section heading, paragraph (a), the introductory text of paragraph (c), and paragraphs (c)(2) and (d) are revised to read as follows:

§ 20.1208 Dose equivalent to an embryo/fetus.

(a) The licensee shall ensure that the dose equivalent to the embryo/fetus during the entire pregnancy, due to the occupational exposure of a declared pregnant woman, does not exceed 0.5 rem (5 mSv). (For recordkeeping requirements, see § 20.2106.)

* * * * *

(c) The dose equivalent to the embryo/fetus is the sum of—

* * * * *

(2) The dose equivalent to the embryo/fetus resulting from radionuclides in the embryo/fetus and radionuclides in the declared pregnant woman.

(d) If the dose equivalent to the embryo/fetus is found to have exceeded 0.5 rem (5 mSv), or is within 0.05 rem (0.5 mSv) of this dose, by the time the woman declares the pregnancy to the licensee, the licensee shall be deemed to be in compliance with paragraph (a) of this section if the additional dose equivalent to the embryo/fetus does not exceed 0.05 rem (0.5 mSv) during the remainder of the pregnancy.

8. In § 20.1501, paragraphs (a)(2)(i) and (a)(2)(iii) are revised to read as follows:

§ 20.1501 General.

(a) * * *

(2) * * *

(i) The magnitude and extent of radiation levels; and

* * * * *

(iii) The potential radiological hazards.

* * * * *

9. In § 20.1502, paragraph (a)(3) is redesignated as (a)(4) and new paragraphs (a)(3) and (b)(3) are added; and the introductory text of paragraph (a) and paragraphs (a)(2), (b)(1), and (b)(2) are revised to read as follows:

§ 20.1502 Conditions requiring individual monitoring of external and internal occupational dose.

* * * * *

(a) Each licensee shall monitor occupational exposure to radiation from licensed and unlicensed radiation sources under the control of the licensee and shall supply and require the use of individual monitoring devices by—

* * * * *

(2) Minors likely to receive, in 1 year, from radiation sources external to the body, a deep dose equivalent in excess of 0.1 rem (1 mSv), a lens dose equivalent in excess of 0.15 rem (1.5 mSv), or a shallow dose equivalent to the skin or to the extremities in excess of 0.5 rem (5 mSv);

(3) Declared pregnant women likely to receive during the entire pregnancy, from radiation sources external to the body, a deep dose equivalent in excess of 0.1 rem (1 mSv);[2] and

* * * * *

(b) * * *

(1) Adults likely to receive, in 1 year, an intake in excess of 10 percent of the applicable ALI(s) in table 1, Columns 1 and 2, of appendix B to §§ 20.1001–20.2402;

(2) Minors likely to receive, in 1 year, a committed effective dose equivalent in excess of 0.1 rem (1 mSv); and

(3) Declared pregnant women likely to receive, during the entire pregnancy, a committed effective dose equivalent in excess of 0.1 rem (1 mSv).

10. In § 20.1903, a new paragraph (d) is added to read as follows:

§ 20.1903 Exceptions to posting requirements.

* * * * *

(d) Rooms in hospitals or clinics that are used for teletherapy are exempt from the requirement to post caution signs under § 20.1902 if—

(1) Access to the room is controlled pursuant to 10 CFR 35.615; and

(2) Personnel in attendance take necessary precautions to prevent the inadvertent exposure of workers, other patients, and members of the public to radiation in excess of the limits established in this part.

11. In § 20.1906, the introductory text of paragraph (d) is revised to read as follows:

§ 20.1906 Procedures for receiving and opening packages.

* * * * *

(d) The licensee shall immediately notify the final delivery carrier and the NRC Operations Center (301–816–5100), by telephone, when—

* * * * *

12. In § 20.2101, paragraph (b) is redesignated as paragraph (c), paragraph (c) is redesignated as paragraph (d) and revised, and a new paragraph (b) is added to read as follows:

[2] All of the occupational doses in § 20.1201 continue to be applicable to the declared pregnant worker as long as the embryo/fetus dose limit is not exceeded.

§ 20.2101 General provisions.

* * * * *

(b) In the records required by this part, the licensee may record quantities in SI units in parentheses following each of the units specified in paragraph (a) of this section. However, all quantities must be recorded as stated in paragraph (a) of this section.

* * * * *

(d) The licensee shall make a clear distinction among the quantities entered on the records required by this part (e.g., total effective dose equivalent, shallow-dose equivalent, lens dose equivalent, deep-dose equivalent, committed effective dose equivalent).

13. In § 20.2106, paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) are revised to read as follows:

§ 20.2106 Records of individual monitoring results.

(a) * * *

(1) The deep-dose equivalent to the whole body, lens dose equivalent, shallow-dose equivalent to the skin, and shallow-dose equivalent to the extremities;

(2) The estimated intake of radionuclides (see § 20.1202);

(3) The committed effective dose equivalent assigned to the intake of radionuclides;

(4) The specific information used to assess the committed effective dose equivalent pursuant to § 20.1204(a) and (c), and when required by § 20.1502;

* * * * *

14. In § 20.2202, paragraphs (a)(1)(ii), (b)(1)(ii), and (d)(2) are revised to read as follows:

§ 20.2202 Notification of incidents.

(a) * * *

(1) * * *

(ii) A lens dose equivalent of 75 rems (0.75 Sv) or more; or

(b) * * *

(1) * * *

(ii) A lens dose equivalent exceeding 15 rems (0.15 Sv); or

(d) * * *

(2) All other licensees shall make the reports required by paragraphs (a) and (b) of this section by telephone to the NRC Operations Center (301) 816–5100.

* * * * *

PART 32—SPECIFIC DOMESTIC LICENSES TO MANUFACTURE OR TRANSFER CERTAIN ITEMS CONTAINING BYPRODUCT MATERIAL

15. The authority citation for Part 32 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

§ 32.54 [Amended]

16. In § 32.54, paragraph (a) is amended by revising the reference to "§ 20.203(a)" to read "§ 20.1901."

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

17. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

18. In § 35.641, paragraphs (a)(2)(i) and (a)(2)(ii) are revised to read as follows:

§ 35.641 Radiation surveys for teletherapy facilities.

(a) * * *

(2) * * *

(i) Radiation dose rates in restricted areas are not likely to cause any occupationally exposed individual to receive a dose in excess of the limits specified in § 20.1201 of this chapter; and

(ii) Radiation dose rates in controlled or unrestricted areas are not likely to cause any individual member of the public to receive a dose in excess of the limits specified in § 20.1301 of this chapter.

* * * * *

19. In § 35.643, paragraphs (a) introductory text and (a)(1) are revised to read as follows:

§ 35.643 Modification of teletherapy unit or room before beginning a treatment program.

(a) If the survey required by § 35.641 indicates that any individual member of the public is likely to receive a dose in excess of the limits specified in § 20.1301 of this chapter, the licensee shall, before beginning the treatment program:

(1) Either equip the unit with stops or add additional radiation shielding to ensure compliance with § 20.1301 of this chapter.

* * * * *

PART 36—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR IRRADIATORS

20. The authority citation for Part 36 continues to read as follows:

Authority: Secs. 81, 82, 161, 182, 183, 186, 68 Stat. 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

21. In § 36.23, paragraph (g) is revised to read as follows:

§ 36.23 Access control.

* * * * *

(g) Each entrance to the radiation room of a panoramic irradiator and each entrance to the area within the personnel access barrier of an underwater irradiator must be posted as required by 10 CFR 20.1902. Radiation postings for panoramic irradiators must comply with the posting requirements of 10 CFR 20.1902, except that signs may be removed, covered, or otherwise made inoperative when the sources are fully shielded.

* * * * *

PART 39—LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL LOGGING

22. The authority citation for Part 39 continues to read as follows:

Authority: Secs. 53, 57, 62, 63, 65, 69, 81, 82, 161, 182, 183, 188, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2112, 2201, 2232, 2233, 2236, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

23. In § 39.33, paragraph (a) is revised to read as follows:

§ 39.33 Radiation detection instruments.

(a) The licensee shall keep a calibrated and operable radiation survey instrument capable of detecting beta and gamma radiation at each field station and temporary jobsite to make the radiation surveys required by this part and by part 20 of this chapter. To satisfy this requirement, the radiation survey instrument must be capable of measuring 0.001 mSv (0.1 mrem) per hour through at least 0.5 mSv (50 mrem) per hour.

* * * * *

§ 39.71 [Amended]

24. In § 39.71, paragraph (b) is amended by revising the reference to "§ 20.3" to read "§ 20.1003."

Dated at Rockville, Maryland, this 9th day of July 1998.

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations.

[FR Doc. 98–19540 Filed 7–22–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–128–AD; Amendment 39–10674; AD 98–15–24]

RIN 2120–AA64

Airworthiness Directives; Stemme GmbH & Co. KG Model S10–V Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Stemme GmbH & Co. KG (Stemme) Model S10–V sailplanes. This AD requires replacing the propeller blade suspension forks with parts of improved design. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany. The actions specified by this AD are intended to prevent propeller suspension fork failure caused by design deficiency, which could result in loss of a propeller blade and loss of sailplane controllability.

DATES: Effective September 15, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 15, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Federal Republic of Germany. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–128–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to on certain Stemme Model S10–V sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on May 11, 1998 (63 FR 25787). The NPRM proposed to require replacing the propeller blade suspension fork, distance ring, and nut with parts of improved design. Accomplishment of the proposed action as specified in the NPRM would be in accordance with pages 3 and 4 of Stemme GmbH & Co. KG Service Bulletin No. A31–10–020, Am-index: 02.a, dated October 7, 1996.

The NPRM was the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Germany.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 7 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 6 workhours per sailplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $930 per sailplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $9,030, or $1,290 per sailplane.

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 copy of the final 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, 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 a new airworthiness directive (AD) to read as follows:

98–15–24 STEMME GMBH & CO. KG: Amendment 39–10674; Docket No. 97–CE–128–AD.

Applicability: Model S10–V sailplanes (serial numbers (S/N) 14–002 through 14–026, and converted sailplanes S/N 14–003M through 14–063M), certificated in any category.

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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required upon the accumulation of 100 hours total time-in-service (TIS) on the sailplane propeller or within the next 10 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent propeller suspension fork failure caused by design deficiency, which could result in loss of a propeller blade and loss of sailplane controllability, accomplish the following:

(a) Replace the following in accordance with pages 3 and 4 of Stemme GmbH & Co. KG Service Bulletin No. 31–10–020, Am-index: 02.a, dated October 7, 1996:

(1) The propeller blade suspension fork, part number (P/N) 0AP–V08 (or an FAA-approved equivalent P/N), with a new propeller blade suspension fork, P/N A09–10AP–V08 (or an FAA-approved equivalent P/N);

(2) The propeller blade suspension fork distance ring, P/N 10AP–V05 (or an FAA-approved equivalent P/N), with a new propeller fork distance ring, P/N A09–10AP–V05 (or an FAA-approved equivalent P/N); and

(3) The propeller blade suspension fork nut, P/N 10AP–V06 (or an FAA-approved equivalent P/N), with a new propeller blade suspension fork nut, P/N A09–10AP–V06 (or an FAA-approved equivalent part number).

(b) 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.

(c) An alternative method of compliance or adjustment of the compliance time 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 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(d) Questions or technical information related to pages 3 and 4 of Stemme GmbH & Co. KG Service Bulletin No. A31–10–020, Am-index: 02.a, dated October 7, 1996, should be directed to Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Federal Republic of Germany. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

(e) The replacements required by this AD shall be done in accordance with pages 3 and 4 of Stemme GmbH & Co. KG Service Bulletin No. A31–10–020, Am-index: 02.a, dated October 7, 1996. 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 Stemme GmbH & Co. KG, Gustav-Meyer-Allee 25, D–13355 Berlin, Federal Republic of 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.

Note 3: The subject of this AD is addressed in German AD 95–177/2, dated January 30, 1997.

(f) This amendment becomes effective on September 15, 1998.

Issued in Kansas City, Missouri, on July 15, 1998.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19459 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–33–AD; Amendment 39–10673; AD 98–15–22]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all EMBRAER Model EMB–120 series airplanes, that requires a one-time inspection for delamination, erosion, and condition of fillet sealant and conductive edge sealer of the wing and empennage leading edge area behind the de-ice boots, and follow-on corrective actions. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent delamination of the wing and empennage leading edge due to improper installation of the wing de-ice boot, which could result in reduced controllability of the airplane.

DATES: Effective August 27, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 27, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rob Capezzuto, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6071; fax (770) 703–6097.

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 EMBRAER Model EMB–120 series airplanes was published in the **Federal Register** on March 27, 1998 (63 FR 14855). That action proposed to require a one-time inspection for delamination, erosion, and condition of fillet sealant and conductive edge sealer of the wing and empennage leading edge area behind the de-ice boots, and follow-on corrective actions.

Comments

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

Two commenters support issuance of the rule as proposed.

Request To Cite Original Service Bulletin

One commenter requests that the proposed AD add the original issue of EMBRAER Alert Service Bulletin 120–51–A004, dated September 13, 1997, as an approved method to comply with the required inspection specified in paragraph (a) of the proposed AD. The commenter indicates that it has completed the inspection; however, the inspection was accomplished in accordance with the original issue of the alert service bulletin, rather than Change 01, which is referenced in the proposed AD as the appropriate source of service information. The commenter states that the differences between the two versions of the alert service bulletin are not sufficient to warrant accomplishment of the inspection a second time on its fleet of Model EMB–120 series airplanes.

The FAA does not concur with the commenter's request. The manufacturer advises that operators that have accomplished the inspections in accordance with the original issue of EMBRAER Alert Service Bulletin 120–51–A004, dated September 13, 1997, will need to accomplish additional work, as described in Change 01 of the alert service bulletin. While the FAA concurs that the inspection procedures did not change significantly between the

original issue and Change 01 of the alert service bulletin, the FAA has determined that Change 01 should be accomplished as it better addresses inspection requirements and repair procedures; therefore, no change to the final rule is necessary. (Part II of the alert service bulletin adds procedudres for application of conductive edge sealer over the anti-static paint.) However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for an alternative method of compliance if sufficient data are submitted to substantiate that such a method would provide an acceptable level of safety.

Issuance of Change 2 of the Alert Service Bulletin

Another commenter, the manufacturer, advises that it soon will publish Change 2 of EMBRAER Alert Service Bulletin 120–51–A004. The FAA notes this, and advises that it may consider further rulemaking once it has reviewed the revision to the alert service bulletin. However, the FAA does not consider it appropriate to delay issuance of this final rule, which requires accomplishment of actions in accordance with Change 01 of the alert service bulletin.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 240 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $28,800, or $120 per airplane.

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

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:

98–15–22 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–10673. Docket 98–NM–33–AD.

Applicability: All Model EMB–120 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 (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent delamination of the wing and empennage leading edge due to improper installation of the wing de-ice boot, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 75 flight hours or 120 days after the effective date of this AD, whichever occurs later: Perform a one-time visual inspection for delamination, erosion, and condition of fillet sealant and conductive edge sealer of the wing and empennage leading edge area behind the de-ice boots, in accordance with EMBRAER Alert Service Bulletin 120–51–A004, Change 01, dated November 10, 1997. Except as provided by paragraph (b) of this AD, prior to further flight, accomplish follow-on corrective actions in accordance with the alert service bulletin.

(b) If any discrepancy is found during accomplishment of paragraph (a) of this AD, and the alert service bulletin specifies to contact EMBRAER: Prior to further flight, repair the affected structure in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate.

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

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

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

(e) Except as provided by paragraph (b) of this AD, the actions shall be done in accordance with EMBRAER Alert Service Bulletin 120–51–A004, Change 01, dated November 10, 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343–CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; 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 Brazilian airworthiness directive 97–09–07.

(f) This amendment becomes effective on August 27, 1998.

Issued in Renton, Washington, on July 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19457 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–82–AD; Amendment 39–10672; AD 98–15–21]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 747–100 series airplanes, that currently requires repetitive inspections to detect cracking of the wing front spar web above engine numbers 2 and 3, and to detect cracked or broken fasteners in the web; and repair, if necessary. That AD also provides an optional terminating action for the repetitive inspections. This amendment requires various improved inspections. This amendment is prompted by a report indicating that the existing inspections do not adequately detect vertical cracks. The actions specified by this AD are intended to prevent fuel leakage onto an engine and a resultant fire due to cracked or broken fasteners in the wing front spar.

DATES: Effective August 27, 1998.

The incorporation by reference of Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995, as listed in the regulations, is approved by the Director of the Federal Register as of August 27, 1998.

The incorporation by reference of Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; and Boeing Service Bulletin 747–57A2266, Revision 4, dated November 3, 1994, was approved previously by the Director of the Federal Register as of March 23, 1995 (60 FR 9613, February 21, 1995).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 95–02–15, amendment 39–9134 (60 FR 9613, February 21, 1995), which is applicable to certain Boeing Model 747–100 series airplanes, was published in the **Federal Register** on April 14, 1998 (63 FR 18167). The action proposed to supersede AD 95–02–15 to continue to require repetitive inspections to detect cracking of the wing front spar web above engine numbers 2 and 3, and to detect cracked or broken fasteners in the web; and repair, if necessary. That action also continues to provide for an optional terminating action for the repetitive inspections. The action proposed to require various improved inspections.

Comments

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

The commenter supports the proposed rule.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 190 Boeing Model 747–100 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 95 airplanes of U.S. registry will be affected by this AD.

The actions that are currently required by AD 95–02–15, and retained in this AD, take approximately 70 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspection on U.S. operators is estimated to be $399,000, or $4,200 per airplane, per inspection cycle.

For airplanes identified as Configuration A in the referenced alert service bulletin, the new actions that are required in this AD will take approximately 60 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new inspection requirements of this AD on those U.S. operators is estimated to be $3,600 per airplane, per inspection cycle.

For airplanes identified as Configuration B in the referenced alert service bulletin, the new actions that are required in this AD will take approximately 40 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new inspection requirements of this AD on U.S. operators is estimated to be $2,400 per airplane, per inspection cycle.

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

Should an operator elect to accomplish the optional terminating action (fastener replacement between FSS 570 and FSS 684) that is provided by this AD action, it would take approximately 306 work hours to accomplish it, at an average labor rate of $60 per work hour. The cost of required parts would be approximately $15,478. Based on these figures, the cost impact of the optional terminating action will be $33,838 per airplane.

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 removing amendment 39–9134 (60 FR 9613, February 21, 1995), and by adding a new airworthiness directive (AD), amendment 39–10672, to read as follows:

98–15–21 Boeing: Amendment 39–10672. Docket 97–NM–82–AD. Supersedes AD 95–02–15, Amendment 39–9134.

Applicability: Model 747–100 series airplanes; as listed in Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fuel leakage onto an engine and a resultant fire, accomplish the following:

Restatement of Requirements of AD 95–02–15, Amendment 39–9134

(a) For airplanes on which the terminating action (fastener replacement) specified in Boeing Service Bulletin 747–57A2266, dated June 6, 1991; Revision 1, dated May 21, 1992; or Revision 2, dated June 10, 1993; has not been accomplished: Prior to the accumulation of 13,000 total flight cycles, or within 9 months after March 23, 1995 (the effective date of AD 95–02–15, amendment 39–9134), or within 2,000 flight cycles after the immediately preceding inspection accomplished in accordance with AD 92–07–11, amendment 39–8207, whichever occurs latest, accomplish the inspections specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994, or Revision 4, dated November 3, 1994. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles until the inspections required by paragraph (c) or (d) of this AD, as applicable, are accomplished.

(1) Perform a detailed visual inspection to detect cracking of the wing front spar chords, stiffeners, and rib posts between the fastener heads between FSS 570 and FSS 684; and

(2) Perform an ultrasonic inspection of the web under the upper and lower chord footprints to detect cracking of the wing front spar web between FSS 570 and FSS 684; and

(3) Perform an ultrasonic inspection of the fasteners in the web-to-chords, and of the fasteners in the top two and bottom two rows in the web-to-stiffeners and web-to-rib posts of the wing front spar to detect cracked or broken fasteners between FSS 570 and FSS 684.

(b) For airplanes on which the terminating action (fastener replacement) specified in Boeing Service Bulletin 747–57A2266, dated June 6, 1991; Revision 1, dated May 21, 1992; or Revision 2, dated June 10, 1993; has been accomplished: Within 18 months after accomplishing the terminating action specified in the original issue, Revision 1, or Revision 2 of the service bulletin, or within 9 months after March 23, 1995, whichever occurs later, accomplish the inspections specified in paragraphs (b)(1), (b)(2), and (b)(3) of this AD, in accordance with Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994, or Revision 4, dated November 3, 1994. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles until the inspections required by paragraph (c) or (d) of this AD, as applicable, are accomplished.

(1) Perform a detailed visual inspection of the wing front spar chords, stiffeners, and rib posts between the fastener heads between FSS 570 and FSS 684; and

(2) Perform an ultrasonic inspection of the web under the upper and lower chord footprints to detect cracking of the wing front spar web between FSS 570 and FSS 636 and between FSS 675 and FSS 684; and

(3) Perform an ultrasonic inspection of the fasteners in the web-to-chords, and of the fasteners in the top two rows and bottom two rows in the web-to-stiffeners and web-to-rib posts of the wing front spar to detect cracked or broken fasteners between FSS 570 and FSS 636 and between FSS 675 and 684.

New Requirements of this AD

(c) For airplanes identified as Configuration A in Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995: Prior to the accumulation of 13,000 total flight cycles, or within 6 months after the effective date of this AD, or within 2,000 flight cycles after the immediately preceding inspection accomplished in accordance with paragraph (a) or (b) of this AD, whichever occurs latest, accomplish the inspections specified in paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD, in accordance with Figure 3 of Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles. Accomplishment of these inspections terminates the inspections required by paragraphs (a) and (b) of this AD.

(1) Perform a detailed visual inspection to detect damage and fuel leaks in the general area of the web of the wing front spar between FSS 570 and FSS 684.

(2) Perform an eddy current inspection to detect cracks along the web near the edges of the vertical flange of the upper and lower chords of the wing front spar between FSS 570 and FSS 684.

(3) Perform an ultrasonic inspection to detect cracks in the web around the first two fastener holes in the stiffeners and rib posts between FSS 570 and FSS 684.

(4) Perform an ultrasonic inspection to detect cracked or broken fasteners in the fasteners attaching only the web to the chords, in the top two and bottom two rows of the fasteners attaching the web to the stiffeners, and in the top two and bottom two rows of the fasteners attaching the web to the rib posts. This inspection area is located between FSS 570 and FSS 684.

(d) For airplanes identified as Configuration B in Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995: Within 18 months following accomplishment of the terminating action (fastener replacement) specified in Boeing Service Bulletin 747–57A2266, dated June 6, 1991, Revision 1, dated May 21, 1992, or Revision 2, dated June 10, 1993; or within 12 months after the effective date of this AD; or within 2,000 flight cycles after the immediately preceding inspection accomplished in accordance with paragraph (a) or (b) of this AD; whichever occurs latest; accomplish the inspections specified in paragraphs (d)(1), (d)(2), (d)(3), and (d)(4) of this AD in accordance with Figure 4 of Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995. Repeat these inspections thereafter at intervals not to exceed 2,000 flight cycles. Accomplishment of these inspections terminates the inspections required by paragraphs (a) and (b) of this AD.

(1) Perform a detailed visual inspection to detect damage and fuel leaks in the general area of the web of the wing front spar between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(2) Perform an eddy current inspection to detect cracks along the web near the edges of the vertical flange of the upper and lower chords of the wing front spar between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(3) Perform an ultrasonic inspection to detect cracks in the web around the first two fastener holes in the stiffeners and rib posts between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(4) Perform an ultrasonic inspection to detect cracked or broken fasteners in the fasteners attaching only the web to the chords, in the top two and bottom two rows of the fasteners attaching the web to the

stiffeners, and in the top two and bottom two rows of the fasteners attaching the web to the rib posts. This inspection area is located between FSS 570 and FSS 636 and between FSS 675 and FSS 684.

(e) If any discrepancy (i.e., cracking, fuel leakage, broken fasteners) is detected during any inspection required by this AD, prior to further flight, repair in accordance with paragraphs E. and H. (as applicable) of the Accomplishment Instructions of Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; Boeing Service Bulletin 747–57A2266, Revision 4, dated November 3, 1994; or Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995. Thereafter, continue to inspect the remaining fasteners in accordance with paragraph (c) or (d) of this AD, as applicable, until the terminating action specified in paragraph (f) of this AD is accomplished. If any crack is found that cannot be removed by oversizing the fastener hole, prior to further flight, repair it in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(f) Replacement of the fasteners in the web-to-chords and of the fasteners in the web-to-stiffeners and web-to-rib posts, as specified in Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; Revision 4, dated November 3, 1994; or Revision 5, dated August 3, 1995; with oversized fasteners on each wing spar in accordance with the service bulletin constitutes terminating action for the repetitive inspections required by paragraphs (a), (b), (c), (d), and (e) of this AD.

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

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

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

(i) The actions shall be done in accordance with Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; Boeing Service Bulletin 747–57A2266, Revision 4, dated November 3, 1994; and Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995.

(1) The incorporation by reference of Boeing Alert Service Bulletin 747–57A2266, Revision 5, dated August 3, 1995, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of Boeing Service Bulletin 747–57A2266, Revision 3, dated March 31, 1994; and Boeing Service Bulletin 747–57A2266, Revision 4, dated November 3, 1994, was approved previously by the Director of the Federal Register as of March 23, 1995 (60 FR 9613, February 21, 1995).

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

(j) This amendment becomes effective on August 27, 1998.

Issued in Renton, Washington, on July 15, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19455 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–35–AD; Amendment 39–10668; AD 98–15–17]

RIN 2120–AA64

Airworthiness Directives; General Electric Company CF6–80A3 Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Company CF6–80A3 series turbofan engines. This action requires initial and repetitive on-wing borescope inspections of the left hand aft mount link assembly for cracks, bearing migration, and bearing race rotation, and, if necessary, replacement with serviceable parts. This amendment is prompted by a report of a fractured left hand aft mount link discovered during a scheduled engine removal. The actions specified in this AD are intended to prevent left hand aft mount link failure, which can result in adverse redistribution of the aft mount loads and possible aft mount system failure.

DATES: Effective August 7, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–35–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Rohr, Inc., 850 Lagoon Dr., Chula Vista, CA 91910–2098; telephone (619–691–3102), fax (619–498–7215). This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: William S. Ricci, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7742, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received a report of a fractured left hand aft mount link discovered during a scheduled engine removal of a General Electric Company (GE) CF6–80A3 series turbofan engine. Failure analysis revealed a fatigue type fracture with no metallurgical anomalies and no geometric discrepancies in the area of the crack origin. Over the course of the investigation of the cracked left hand aft mount link assembly and the review of other link assemblies returned from service, two conditions were noted that individually could be considered benign but when combined could result in higher stress levels and the reduced fatigue capability of link assemblies. The first condition is the incorrect orientation of the entry slots of the spherical bearing assembly and the second condition is high friction between the bearing and the race resulting from contamination between faying bearing surfaces. This condition, if not corrected, could result in left hand aft mount link failure, which can result in adverse redistribution of the aft mount loads and possible aft mount system failure.

On May 20, 1998, the Direction Generale de L'Aviation Civile (DGAC), the airworthiness authority of France, issued AD 98–205–260(B), applicable to Airbus A310 aircraft, addressing this unsafe condition by requiring initial and repetitive on-wing borescope inspections of the left hand aft mount link assembly for cracks, bearing

migration, and bearing race rotation, and, if necessary, replacement with serviceable parts. On June 3, 1998, the Transport Airplane Directorate (TAD) of the FAA issued AD 98–12–24, also applicable to Airbus A310 aircraft, requiring a one-time on-wing borescope inspection for cracks and bearing migration. The Engine and Propeller Directorate has consulted with the DGAC and the TAD and has determined that it is necessary to issue this AD applicable to GE CF6–80A3 series engines mandating repetitive borescope inspections in order to assure the continued airworthiness of the aft mount links.

The FAA has reviewed and approved the technical contents of Rohr Alert Service Bulletin (ASB) No. CF6–80A3–NAC–A71–060, dated January 30, 1998, that describes procedures for borescope inspections of the left hand aft mount link for cracks, bearing migration, and bearing race rotation.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent left hand aft mount link failure. This AD requires initial and repetitive on-wing borescope inspections of the left hand aft mount link assembly for cracks, bearing migration, and bearing race rotation, and, if necessary, replacement with serviceable parts. The investigation is ongoing, and further rulemaking may be necessary that may require additional piece-part inspections or the installation of a modified left hand aft mount link assembly that would terminate the repetitive inspections required by this AD. The actions are required to be accomplished in accordance with the ASB described previously.

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–35–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–15–17 General Electric Company: Amendment 39–10668. Docket 98–ANE–35–AD.

Applicability: General Electric Company (GE) CF6–80A3 series turbofan engines, installed on but not limited to Airbus A310 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 left hand aft mount link failure, accomplish the following:

(a) Perform initial and repetitive borescope on-wing inspections of the left hand aft mount link assembly for cracks, bearing migration, and bearing race rotation exceeding the limits specified in Rohr Alert Service Bulletin (ASB) No. CF6–80A3–NAC–A71–060, dated January 30, 1998, and, if necessary, replace with serviceable parts, as follows:

(1) Initially inspect within 50 cycles in service (CIS) after the effective date of this AD.

(2) Thereafter, reinspect at intervals not to exceed 175 CIS since last inspection.

(3) Prior to further flight, remove from service any left hand aft mount link discovered with cracks, bearing migration, or bearing race rotation, exceeding the limits specified in Rohr ASB No. CF6–80A3–NAC–A71–060, dated January 30, 1998, and replace with serviceable parts.

(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, Engine

Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(d) The actions required by this AD shall be done in accordance with the following Rohr ASB:

Document No.	Pages	Date
CF6–80A3–NAC–A71–060.	1–10	January 30, 1998.

Total pages: 10.

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 Rohr, Inc., 850 Lagoon Dr., Chula Vista, CA 91910–2098; telephone (619–691–3102), fax (619–498–7215). Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 7, 1998.

Issued in Burlington, Massachusetts, on July 15, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–19485 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–26–AD; Amendment 39–10667; AD 98–15–16]

RIN 2120–AA64

Airworthiness Directives; Bombardier-Rotax GmbH 912 F Series Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bombardier-Rotax GmbH 912 F series reciprocating engines. This action requires installation of an improved fuel pump and fuel supply tube. This amendment is prompted by reports of fuel leaks at the outlet port of the fuel pump. The actions specified in this AD are intended to prevent fuel leaks from the fuel pump, which could result in undetected loss of fuel in flight or, an engine fire.

DATES: Effective August 7, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 7, 1998.

Comments for inclusion in the Rules Docket must be received on or before September 21, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–26–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from Bombardier-Rotax GmbH, Welser Strasse 32, A–4623 Gunskirchen, Austria; telephone 7246–601–232, fax 7246–601–370. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: James Lawrence, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7176, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Austro Control GmbH (ACG), which is the airworthiness authority for Austria, recently notified the FAA that an unsafe condition may exist on Bombardier-Rotax GmbH 912 F series reciprocating engines. The ACG advises that they have received reports of fuel leaks at the outlet port of the fuel pump. One service difficulty report indicated that up to approximately one half of the fuel tank contents was lost in flight as a result of a large crack forming at the base of the fuel pump outlet port. This was the second occurrence of fuel leak on that particular engine. The investigation revealed misalignment of the rigid tube connecting the fuel distribution manifold and fuel pump. This condition, if not corrected, could result in fuel leaks from the fuel pump, which could result in undetected loss of fuel in flight or, an engine fire.

Bombardier-Rotax GmbH has issued Technical Bulletin (TB) No. 912–20 R1, dated February 10, 1998, that specifies procedures for installation of an improved fuel pump and fuel supply tube. The ACG classified this TB as mandatory and issued AD 94/1 in order to assure the airworthiness of these engines in Austria.

This engine model is manufactured in Austria 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 ACG has kept the FAA informed of the situation described above. The FAA has examined the findings of the ACG, 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 engines of the same type design registered in the United States, the AD requires installation of an improved fuel pump and fuel supply tube. The actions would be required to be accomplished in accordance with the TB described previously.

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

Comments Invited

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

action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–26–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–15–16 Bombardier-Rotax GmbH: Amendment 39–10667. Docket 98–ANE–26–AD.

Applicability: Bombardier-Rotax GmbH 912 F series reciprocating engines, with serial numbers (S/Ns) 4,412.502 up to and including S/N 4,412.764, installed on but not limited to Diamond Aircraft Industries DA 20–A1 aircraft.

Note 1: This airworthiness directive (AD) applies to each engine 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 engines 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 fuel leaks from the fuel pump, which could result in undetected loss of fuel in flight or an engine fire, accomplish the following:

(a) At the earliest of: prior to exceeding 25 hours time in service (TIS) after the effective date of this AD, the next engine maintenance action, or upon discovery of a fuel pump leak, install an improved fuel pump and fuel supply tube in accordance with Bombardier-Rotax GmbH Technical Bulletin (TB) No. 912–20 R1, dated February 10, 1998.

(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, Engine Certification Office. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

Note 3: Special flight permits may only be issued to operators who exceed the 25 hour TIS requirement.

(d) The actions required by this AD shall be performed in accordance with the following Bombardier-Rotax GmbH TB:

Document No.	Pages	Date
912–20 R1	1–5	February 10, 1998.

Total pages: 5.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier-Rotax GmbH, Welser Strasse 32, A–4623 Gunskirchen, Austria; telephone 7246–601–232, fax 7246–601–370. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 7, 1998.

Issued in Burlington, Massachusetts, on July 15, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–19484 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–22–AD; Amendment 39–10675; AD 98–15–26]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH–6A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing priority letter Airworthiness Directive (AD) 98–03–15, applicable to McDonnell Douglas Helicopter Systems (MDHS) Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH–6 helicopters that currently requires an inspection for main rotor blade (blade) cracks and for missing or cracked adhesive or paint. This amendment requires the same inspections required by the existing priority letter AD but deletes the Model 369 (Army YOH–6A), specifies recording torque events (TE),

and establishes a shorter retirement life for certain blades. This amendment is prompted by an accident in which a blade failed on a Model 369D helicopter due to fatigue cracks. The actions specified by this AD are intended to detect cracks that could lead to failure of the blade and subsequent loss of control of the helicopter.

DATES: Effective August 3, 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 29, 1996 (61 FR 24220, May 14, 1996).

Comments for inclusion in the Rules Docket must be received on or before September 21, 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–22–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from McDonnell Douglas Helicopter Systems, Technical Publications, Bldg. M615/GO48, 5000 E. McDowell Road, Mesa, Arizona 85215–9797, telephone 602–891–6522. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663 For Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Cecil, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (562) 627–5229, fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: On January 29, 1998, the FAA issued Priority Letter AD 98–03–15, applicable to Boeing MDHS Model 369, 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH–6 helicopters, which requires an inspection for blade cracks and for missing or cracked adhesive or paint. That priority letter AD was prompted by an accident in which a blade failed on a Boeing MDHS Model 369D helicopter due to cracks. The blade that failed had accumulated over 2,300 hours time-in-service (TIS). Subsequent investigation revealed cracks in two other blades on the same helicopter. Additionally, an operator reported finding a blade crack as a result of complying AD 98–01–13. The cracks had initiated in the lower doubler and propagated in a chordwise direction through the blade skin and spar. These fatigue cracks may have been caused by residual stresses induced by nonconforming doublers used to construct the blade. A fatigue crack in a blade creates an unsafe condition. That condition, if not detected, could result in failure of the blade and subsequent loss of control of the helicopter.

The FAA previously issued AD 95–03–13, effective March 21, 1995, Docket No. 94–SW–05–AD; AD 96–10–09, effective May 29, 1996, Docket No. 96–SW–02–AD; Priority Letter AD 98–01–13, issued December 31, 1997, Docket No. 97–SW–68–AD, and Priority Letter AD 98–03–15 issued January 29, 1998, Docket No. 98–SW–06–AD, all of which mandate inspections in the same general area. Priority Letter Ad 98–03–15 superseded Priority Letter AD 98–01–13. This AD supersedes Priority Letter AD 98–03–15. This AD does not supersede AD 95–03–13 or AD 96–10–09.

Since the issuance of AD 98–03–15, the FAA has determined the need for establishing and recording of torque events (TE) plus the lowering of the limit lives of the main rotor blades. The FAA has reviewed Boeing McDonnell Douglas Helicopter Systems Service Bulletin No. SB369H–243R3, SB369E–088R3, SB500N–015R3, SB369D–195R3, SB369F–075R3, SB600N–007R2, dated July 13, 1998 (SB). The SB describes procedures for a visual inspection of certain main rotor blades using a 10X magnifying glass. The inspections are intended to detect cracking of the lower surface of each blade starting at the root fitting and the doubler at the inboard end of the blade and to detect debonding between the blade root end fitting and doubler if missing or cracked adhesive or paint is observed. For all affected helicopters except the Model 600N, with blades installed that have 600 or more hours TIS, the SB provides that these inspections are to be accomplished prior to further flight, and thereafter at intervals not to exceed 25 hours TIS. For Model 600N helicopters, the SB provides, prior to further flight, removal of affected blades due to higher blade stresses on this model as compared to other affected models. Additionally, this SB introduces flight hour factoring as a means of addressing certain low cycle fatigue by providing an alternate retirement life for the affected blades based on TE. The manufacturer has determined that this action would not affect any Model 369 (Army YOH–6A) helicopters. There are no known Model 369 helicopters in the U.S. fleet. Further, there were only two Model 369 helicopters produced as prototype Army YOH–6A. Therefore, the Model 369 helicopter is deleted from the SB. The FAA has also reviewed McDonnell Douglas Helicopter Systems Service Information Notice No. HN–239, DN–188, EN–81, FN–67, NN–008, dated October 27, 1965, which describes procedures for an inspection for debonding between the blade root end fitting and doubler if missing or cracked adhesive or paint is observed.

Since an unsafe condition has been identified that is likely to exist or develop on other MDHS Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH–6A helicopters of the same type design, this AD requires, before further flights, and thereafter at intervals not to exceed 25 hours TIS, for affected blades that have 600 or more hours TIS, a visual inspection for cracks in the lower surface of the blade root fitting and doubler at the inboard end of the blade and for missing or cracked adhesive or paint at the root end-to-doubler bonding line. The inspections will be accomplished using a 10X or higher magnifying glass. Blades will be removed from service before or upon the accumulation of a specified number of TE or hours TIS, whichever occurs first. Since this same unsafe condition is likely to exist on MDHS Model 600N helicopters and develop at a faster rate because of higher blade stresses, this AD requires removal of certain main rotor blades prior to further flight and replacement with airworthy blades.

The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the controllability and structural integrity of the helicopter. Therefore, inspecting for blade cracks and missing or cracked adhesive or paint, removing certain MDHS Model 600N helicopter blades, and reducing the service life for the blades are required prior to further flight, and this Ad must be issued immediately.

Since issuance of Priority Letter 98–03–15, the FAA has evaluated additional data and has determined that the reduction of the service life of the affected blades is appropriate. The actions are required to be accomplished in accordance with this AD and Service Information Notice No. HN–239, DN–188, EN–81, FN–67, NN–008, dated October 27, 1995, described previously.

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

The FAA estimates that 1,030 helicopters of U.S. registry will be affected by this AD, and it will take

approximately 0.5 hours per helicopter to determine whether an affected blade is installed, 1 work hour per helicopter with an affected blade for the initial inspection, and 2.5 hours to replace a blade at a rate of $60 per work hour. Required parts will cost approximately $6200 per blade. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3,799,980 to inspect the blades for cracks and to replace 588 affected blades.

Comments Invited

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

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

Comments 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–SW–22–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 3913 is amended by adding a new airworthiness directive (AD) to read as follows:

AD 98–15–26 McDonnell Douglas Helicopter Systems: Amendment 39–10675. Docket No. 98–SW–22–AD. Supersedes Priority Letter AD 98–08–15, Docket No. 98–SW–06–AD.

Applicability: Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, 600N, and OH–6A helicopters with main rotor blades Part Number (P/N) 369A1100–507 with Serial Number (S/N) D139 through D203, D209 through D223; P/N 369D21100–517 with S/N H664, H665, H667, H669, H671, H672, H674, H676, H679, H680, H683 through H724, H726 through H999, J000 through J039, J041 through J055; or P/N 369D21102–517 with S/N 1976 through 2100, 2106 through 2115, installed, 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 (f) 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, alternation, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

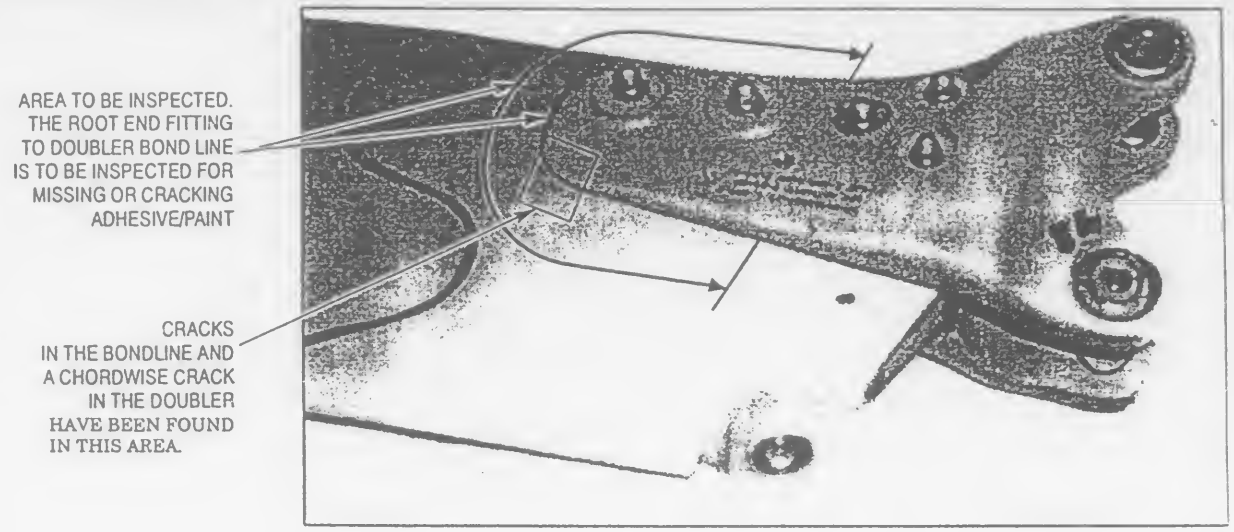
(a) For Model 369A, 369D, 369E, 369F, 369FF, 369H, 369HE, 369HM, 369HS, 500N, and OH–6A helicopters with any affected main rotor blade (blade) that has 600 or more hours time-in-service (TIS), to detect cracks that could lead to failure of the blade and subsequent loss of control of the helicopter, before further flight and thereafter at intervals not to exceed 25 hours TIS, accomplish the following:

(1) With each blade lifted off the droop stop, using a 10X or higher magnifying glass, visually inspect the blade for any chordwise cracking starting at the root fitting edge on the blade lower surface doubler and skin or cracks on the doubler adjacent to the root end fitting (Figure 1). If any cracking is discovered, remove the blade and replace it with an airworthy blade.

Note 2: Boeing McDonnell Douglas Helicopter Systems Service Bulletin No. SB369H–243R3, SB369E–088R3, SB500N–015R3, SB369D–195R3, SB369F–075R3, SB600N–007R2, dated July 13, 1998 (SB), pertains to the subject of this AD.

(2) With each blade lifted off the droop stop, inspect the lower surface for missing or cracked adhesive or paint at the root end fitting-to-doubler bond line (Figure 1). If any missing or cracked adhesive or paint is discovered, remove and inspect the blade in accordance with paragraph 3E of Part II of the Accomplishment Instructions in McDonnell Douglas Helicopter Systems Service Information Notice No. HN–239, DN–188, EN–81, FN–67, NN–008, dated October 27, 1995. If there is any disbonding in excess of the allowable margins specified in paragraph 3E of Part II of the service information notice, replace the blade with an airworthy blade.

BILLING CODE 4910–13–M



Main Rotor Blade Lower Surface Root Fitting and Doubler Inspection

Figure 1

BILLING CODE 4910–13–C

(b) For the Model 600N helicopters, before further flight, remove any affected blade from service and replace it with an airworthy blade not listed in the applicability section of this AD. Blades removed from the Model 600N helicopters are not eligible for use on any rotorcraft.

Note 3: The recurring inspection requirements, contained in paragraph (a) of this AD, DO NOT apply to the Model 600N helicopters.

(c) Affected blades are to be removed from service on or before reaching either of the applicable new life limits. The new life limits are determined by hours TIS or number of torque events (TE). A torque event is defined as the transition to a hover from forward flight. For this definition of TE, forward flight is considered to be flight at any airspeed after attaining translational lift.

(1) For blades that do not have TE logged, prior to further flight, log the TE in the rotorcraft log or equivalent record as follows:

(i) Log the number of TE, if known.

(ii) For noncargo hook operations, if the number of TE is unknown, log 6 TE for each hour TIS.

(iii) For cargo hook (external load) operations, or for any combination of noncargo hook operations and cargo hook (external load) operations, if the number of TE is unknown, log 20 TE for each hour TIS.

(2) Make any entry into the component record or equivalent record to reflect new life limits for blade P/N's as follows:

(i) For P/N 369A1100–507, Models 369A, 369H, 369HE, 369HM, 369HS, and OH–6A, enter 1,750 hours TIS or 10,600 TE, whichever occurs first.

(ii) For P/N 369D21100–517, Models 369D and 369E, enter 2,500 hours TIS or 15,000 TE, whichever occurs first.

(iii) For P/N 369D21102–517, Model 369F, 369FF, and 500N, enter 2,500 hours TIS or 15,000 TE, whichever occurs first.

(d) After compliance with paragraph (c) of this AD, during each operation thereafter, maintain a count of TE performed and additional hours TIS accumulated, and, at the end of each day's operations, add those counts to the accumulated number of TE and hours TIS on the rotorcraft log or equivalent record.

(e) The blades are no longer retired based upon only hours TIS. This AD revises the Airworthiness Limitations Section of the maintenance manual by establishing a new retirement life for certain blade P/N's based on hours TIS or a number of TE, whichever occurs first.

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

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles Aircraft Certification Office.

(g) Special flight permits will not be issued.

(h) The inspection required by paragraph (a)(2) of this AD shall be done in accordance with McDonnell Douglas Helicopter Systems Service Information Notice No. HN–239, DN–188, EN–81, FN–67, NN–008, dated October 27, 1995. This incorporation by reference was approved previously by the Director of the Federal Register as of May 29, 1996 (61 FR 24220, May 14, 1996). Copies may obtained from McDonnell Douglas Helicopter Systems, Commercial Technical Publications, Bldg. M615/G048, 5000 E. McDowell Road, Mesa, Arizona 85215–9797, telephone 602–891–3667, fax 602–891–6522. Copies may be examined at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meachum Blvd., Room 663, Fort Worth, Texas, or at the Office of the Federal Register, 800 North Capital Street NW., suite 700, Washington, DC.

(i) This amendment becomes effective on August 3, 1998.

Issued in Fort Worth, Texas, on July 17, 1998.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 98–19615 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–49–AD; Amendment 39–10449; AD 98–15–23]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 340B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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.

EFFECTIVE DATE: The direct final rule published at 63 FR 16884 was effective on July 6, 1998.

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 FAA published this direct final rule with request for comments in the **Federal Register** on April 7, 1998 (63 FR 16884). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA anticipates that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, was received within the comment period, the regulation would become effective on July 6, 1998. Comments were received that were not adverse, and thus this notice confirms that this final rule will become effective on that date. The FAA's response to those comments are included in the docket for this AD action.

Issued in Renton, Washington, on July 14, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19331 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–31]

Establishment of Class E Airspace; Wilmington Clinton Field, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Wilmington Clinton Field, OH. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 21 has been developed for Wilmington Clinton Field. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action creates controlled for Wilmington Clinton Field.

EFFECTIVE DATE: 0901 UTC, October 08, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division,

Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, May 15, 1998, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Wilmington Clinton Field, OH (63 FR 27013). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Wilmington Clinton Field, OH, to accommodate aircraft executing the proposed GPS Rwy 21 SIAP at Wilmington Clinton Field, OH, by creating controlled airspace for the airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 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.

* * * * *

AGL OH E5 Wilmington Clinton Field, OH [New]

Wilmington Clinton Field, OH
(lat. 39°30'10" N., long. 83°51'47" W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Wilmington Clinton Field, excluding that airspace within the Wilmington, OH, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 10, 1998.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 98–19583 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–32]

Modifications of Class E Airspace; Prairie Du Chien, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Prairie Du Chien, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 29 has been developed for Prairie Du Chien Municpal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for Prairie Du Chien Municipal Airport.

EFFECTIVE DATE: 0901 UTC, October 08, 1998.

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

SUPPLEMENTARY INFORMATION:

History

On Thursday, May 28, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Prairie Du Chien, WI (63 FR 29167).

The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR Part 71 modifies Class E airspace at Prairie Du Chien, WI, to accommodate aircraft executing the proposed GPS Rwy 29 SIAP at Priaire Du Chien Municipal Airport by increasing the radius of the existing controlled airspace for the airport. The area will be depicted on appropriated aeronautical charts.

The FAA has determined tht this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significantly regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipatd impact is so minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Fedeal 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 fram 700 feet or more abave the surface af the earth.

* * * * *

AGL WI E5 Prairie Du Chien, WI [Revised]

Prairie Du Chien Municipal Airport, WI
(Lat. 43°01'19" N, long. 91°07'29" W)
Waukon VORTAC
(Lat. 43°16'49" N, long 91°32'14" W)

That airspace extending upward from 700 feet above the surface within a 9.3-mile radius of Prairier Du Chien Municipal Airport, and within a 3.9 miles each side of the 130° radial of teh Waukon VORTAC extending from the 9.3-mile radius to 16.1 miles southeast of the airport.

* * * * *

Issued in Des Plaines, Illinois on July 10, 1998.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 98–19582 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–26]

Modification of Class E Airspace; Faribault, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Faribault, MN. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 30 has been developed for Faribault Municipal Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for Faribault Municipal Airport.

EFFECTIVE DATE: 0901 UTC, October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Michelle M. Behm, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, May 15, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Faribault, MN (63 FR 27104). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instruction Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Faribault, MN, to accommodate aircraft executing the proposed GPS Rwy 30 SIAP at Faribault Municipal Airport by increasing the radius of the existing controlled airspace for the airport. The area will be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, E.O. 10854, 24 FR 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 fram 700 feet ar mare abave the surface af the earth.

AGL MN E5 Faribault, MN [Revised].

Faribault Municipal Airport, MN
(lat. 44°19'29" N, Long. 93° 18' 39" W)

That airspace extending upward from 700 feet above the surface and within a 6.6-mile radius of Faribault Municipal Airport and within 1.1 miles each side of the 200° bearing from the Faribault Municipal Airport,

extending from the 6.6-mile radius to 7.8 miles southwest of the airport, excluding that airspace within the Owatonna, MN, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on July 10, 1998.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 98–19581 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–33]

Modification of Class E Airspace; Marshall, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Marshall, MN. Amendment 7 to the VHF Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 12 has been developed for Marshall Municipal-Ryan Field Airport, MN. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action increases the radius of the existing controlled airspace for this airport.

EFFECTIVE DATE: 0901 UTC, October 8, 1998.

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

SUPPLEMENTARY INFORMATION:

History

On Thursday, May 28, 1998, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Marshall, MN (63 FR 29166). The proposal was to add controlled airspace extending upward from 700 to 1200 feet AGL to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E 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 published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Marshall, MN, to accommodate aircraft executing the proposed VOR Rwy 12, Amendment 7, SIAP at Marshall Municipal-Ryan Field Airport, MN, by increasing the radius of the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 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.

* * * * *

AGL MN E5 Marshall, MN [Revised]

Marshall Municipal-Ryan Field Airport. MN
(lat. 44°27'00"N., long. 95°49'20" W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of the Marshall Municipal-Ryan Field Airport.

* * * * *

Issued in Des Plaines, Illinois on July 10, 1998.

David B. Johnson,

Acting Manager, Air Traffic Division.

[FR Doc. 98–19580 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–11]

Amendment to Class E Airspace; Cambridge, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Class E airspace area at Cambridge Municipal Airport, Cambridge, NE. A review of the Class E airspace for Cambridge Municipal Airport indicates it does not comply with criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The area has been enlarged to conform to the criteria of FAA Order 7400.2D. The intended effect of this rule is to comply with the criteria of FAA Order 7400.2D, and to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR).

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

Comments for inclusion in the Rules Docket must be received on or before September 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–11, 601 East 12th Street, Kansas City, MO 64106.

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Cambridge, NE. A review of the Class E airspace for Cambridge Municipal Airport indicates it does not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The amendment at Cambridge Municipal Airport will meet the criteria of FAA Order 7400.2D, provide additional controlled airspace at and above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–11". The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporated by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ACE NE E5 Cambridge, NE [Revised]

Cambridge Municipal Airport, NE
(Lat 40°18′24″ N., long. 100°09′43″ W.)
Harry Strunk NDB
(Lat. 40°18′15″ N., long. 100°09′29″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Cambridge Municipal Airport and within 2.6 miles each side of the 164° bearing

from the Harry Strunk NDB extending from the 6.4-mile radius to 7.4 miles southeast of the airport and within 2.6 miles each side of the 327° bearing from the Harry Strunk NDB extending from the 6.4-mile radius to 7.4 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on June 11, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19674 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–9]

Amendment to Class E Airspace; Gordon, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATE: The direct final rule published at 63 FR 27476 is effective on 0901 UTC, August 13, 1998.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 19, 1998 (63 FR 27476). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 16, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19673 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–10]

Amendment to Class E Airspace; Kimball, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: The direct final rule published at 63 FR 27477 is effective on 0901 UTC, August 13, 1998.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 19, 1998 (63 FR 27477). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 16, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19672 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–18]

Amendment to Class E Airspace; Scottsbluff, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This amendment revises Class E airspace areas at Scottsbluff, William B. Heilig Field, Scottsbluff, NE. A review of the Class E airspace for Scottsbluff, William B. Heilig Field indicates it does not comply with the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The Class E airspace area has been enlarged to conform to the criteria of FAA Order 7400.2D. The Class E surface airspace area is revised to include the coordinates for the Scottsbluff Instrument Landing System (ILS). The intended effect of this rule is to add the Scottsbluff ILS coordinates, comply with the criteria of FAA Order 7400.2D, and provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules (IFR).

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

Comments for inclusion in the Rules Docket must be received on or before September 15, 1998.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 98–ACE–18, 601 East 12th Street, Kansas City, MO 64106.

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

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

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR 71 revises the Class E airspace at Scottsbluff, NE. A

review of the Class E airspace for Scottsbluff, William B. Heilig Field, indicates it does not meet the criteria for 700 feet AGL airspace required for adverse departures as specified in FAA Order 7400.2D. The Class E airspace area has been enlarged to conform to the criteria in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL, is based on a standard climb gradient of 200 feet per mile, plus the distance from the Airport Reference Point (ARP) to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The Class E surface area is amended to indicate the coordinates for the Scottsbluff ILS. The amendment at Scottsbluff, William B. Heilig Field will meet the criteria of FAA Order 7400.2D, add the ILS coordinates, provide additional controlled airspace at and above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The areas will be depicted on appropriate aeronautical charts. Class E airspace areas designated as a surface area for an airport are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 98–ACE–18". The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under Department of Transportation (DOT) Regulatory Policies and 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

ACE NE E2 · Scottsbluff, NE [Revised]

Scottsbluff, William B. Heilig Field, NE
(lat. 41°52′26″ N., long. 103°35′44″ W.)
Scottsbluff VORTAC
(lat. 41°53′39″ N., long. 103°28′55″ W.)
William B. Heilig ILS
(lat. 41°53′01″ N., long. 103°36′24″ W.)

Within a 4.5-mile radius of William B. Heilig Field and within 1.8 miles each side of the 258° radial of the Scottsbluff VORTAC extending from the 4.5-mile radius to the VORTAC and within 4 miles each side of the Scottsbluff VORTAC 256° radial extending from the 4.5-mile radius to 13.5 miles west of the VORTAC and within 1.8 miles each side of the Scottsbluff ILS localizer course extending from the 4.5-mile radius of 6.1 miles northwest of the airport.

* * * * *

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

* * * * *

ACE NE E5 Scottsbluff, NE [Revised]

Scottsbluff, William B. Heilig Field, NE
(lat. 41°52'27" N., long. 103°35'45" W.)
Scottsbluff VORTAC
(lat. 41°53'39" N., long. 103°28'55" W.)
William B. Heilig ILS
(lat. 41°53'01" N., long. 103°36'24" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of William B. Heilig Field and within 4 miles south and 6 miles north of the 078° radial of the Scottsbluff VORTAC extending from the 6.8-mile radius to 11.2 miles east of the VORTAC and within 4 miles southwest and 6 miles northeast of the Scottsbluff ILS localizer course extending from the 6.8-mile radius to 17.2 miles southeast of the airport and within 4 miles northeast and 6 miles southwest of the Scottsbluff ILS localizer course extending from the 6.8-mile radius to 15.2 miles northwest of the airport and within 4 miles each side of the 256° radial of the Scottsbluff VORTAC extending from the 6.8-mile radius to 16.9 miles west of the VORTAC.

* * * * *

Issued in Kansas City, MO, on June 11, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19671 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–16]

Amendment to Class E Airspace; Ainsworth, NE

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATE: The direct final rule published at 63 FR 27480 is effective on 0901 UTC, August 13, 1998.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 19, 1998 (63 FR 27480). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 16, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19670 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–12]

Amendment to Class E Airspace; Knoxville, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

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

DATES: The direct final rule published at 63 FR 28891 is effective on 0901 UTC, August 13, 1998.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct rule with a request for comments in the **Federal Register** on May 27, 1998 (63 FR 28891). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 16, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19669 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–20]

Remove Class E Airspace and Establish Class E Airspace; Springfield, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which removes and establishes Class E airspace at Springfield, MO.

DATES: The direct final rule published at 63 FR 27479 is effective on 0901 UTC, August 13, 1998.

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

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on May 19, 1998 (63 FR 27479). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on August 13, 1998. No adverse comments were received, and thus this notice confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on June 19, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–19668 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AAL–8]

RIN 2120–AA66

Modification of Jet Route J–502; VOR Federal Airway V–444; and Colored Federal Airways Amber 2 and Amber 15; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Jet Route 502 (J–502), very high frequency omnidirectional range (VOR) Federal Airway 444 (V–444), and Colored Federal Airways Amber 2 (A–2) and Amber 15 (A–15) in the State of Alaska. Specifically, this action modifies the description of J–502 by correcting the reference to the Burwash Landing navigational aid and modifies the description of V–444 to exclude airspace within Canada. In addition, this action adds the Beaver Creek, Yukon Territory (YT), Nondirectional Beacon (NDB) to the descriptions of A–2 and A–15 to make them consistent with the revised Canadian en route low altitude structure. This action does not change the dimensions or operating requirements of the airways.

EFFECTIVE DATE: 0901 UTC, October 8, 1998.

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

SUPPLEMENTARY INFORMATION:

The Rule

This action modifies J–502, V–444, A–2, and A–15, in the State of Alaska. Specifically, this action modifies the current description of J–502 from "Burwash Landing, YT, Radio Beacon (RBN)," to "Burwash, YT, NDB," and modifies the description of V–444 to exclude that airspace within Canada.

In addition, this action adds the Beaver Creek NDB to the descriptions of A–2 and A–15 to make them consistent with the revised Canadian en route low altitude structure.

This action does not change the dimensions or operating requirements of the airways.

Since this action merely involves changes in the legal description of jet routes and Federal airways, and does not involve a change in the dimensions or operating requirements of that airspace, notice and public procedure under 5 U.S.C. 553(b) are unnecessary.

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

Jet route, colored Federal airway, and Alaskan VOR Federal airway designations are published in paragraphs 2004, 6009(c) and 6010(b), respectively, of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The jet route, colored Federal airway, and Alaskan VOR Federal airway designations listed in this document will be published subsequently in the Order.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

Paragraph 2004–Jet Routes

* * * * *

J–502 [Revised]

From Seattle, WA; via Victoria, BC, Canada; Port Hardy, BC, Canada; Annette Island, AK; Level Island, AK; Sisters Island, AK; Burwash, YT, Canada, NDB; Northway, AK; Fairbanks, AK, to Kotzebue, AK, excluding the airspace within Canada.

* * * * *

Paragraph 6009(c)—Colored Federal Airways

* * * * *

A–2 [Revised]

From Beaver Creek, YT, Canada, NDB; Nabesna, AK, NDB; to Delta Junction, AK, NDB. From Chena, AK, NDB via Evansville, AK,NDB; to Browerville, AK, NDB. The airspace within Canada is excluded.

* * * * *

A–15 [Revised]

From Ethelda, BC, Canada, NDB via Nichols, AK, NDB; Sumner Strait, AK, NDB; Coghlan Island, AK, NDB; Haines, AK, NDB; Burwash, YT, Canada, NDB; Beaver Creek, YT, NDB; Nabesna, AK, NDB; to Delta Junction, AK, NDB. From Chena, AK, NDB; via Chandalar Lake, AK, NDB; Put River, AK, NDB. The airspace within Canada is excluded.

* * * * *

Paragraph 6010(b)—Alaskan VOR Federal Airways

* * * * *

V–444 [Revised]

From Barrow, AK, Evansville, AK, NDB; Bettles, AK; Fairbanks, AK; Big Delta, AK; Northway, AK; Burwash, YT, excluding that airspace in Canada.

* * * * *

Issued in Washington, DC, on July 17, 1998.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 98–19610 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

15 CFR Part 746

[Docket No. 980522136–8136–01]

RIN 0694–AB69

Exports to the Federal Republic of Yugoslavia (Serbia and Montenegro); Imposition of Foreign Policy Controls; Correction

AGENCY: Bureau of Export Administration, Commerce.

ACTION: Final rule; correction.

SUMMARY: On July 14, 1998, (63 FR 37767) the Bureau of Export Administration published a final rule implementing Executive Order 12918 of May 26, 1994 and the United Nations Security Council Resolution 1160 of March 31, 1998, which directs member countries to ban the supply of arms and arms-related items to the Federal Republic of Yugoslavia (Serbia and Montenegro). Specifically, the July 14 rule amended the Export Administration Regulations by specifying that exports to the Federal Republic of Yugoslavia (Serbia and Montenegro) of arms-related items will be denied. In addition, the July 14 rule imposed a new license requirement and a policy of denial for certain additional items to the Federal Republic of Yugoslavia (Serbia and Montenegro), including bulletproof vests, water cannon, and certain explosives equipment.

This document corrects an inadvertent error in codification related to controls on the Federal Republic of Yugoslavia (Serbia and Montenegro).

EFFECTIVE DATE: This correction is effective July 14, 1998.

FOR FURTHER INFORMATION CONTACT: Patricia Muldonian, Regulatory Policy Division, Bureau of Export Administration, Telephone: (202) 482–2440.

SUPPLEMENTARY INFORMATION: In final rule of July 14, 1998 (63 FR 37767), FR Doc. 98–18417, make the following corrections to part 746:

PART 746—[CORRECTED]

§ 746.9 [Corrected]

1. On page 37769, in the first column, under § 746.9, correct the first line of paragraph (a) to read "(a) *License requirements.* (1) *Scope.* Under".

Dated: July 15, 1998.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 98–19502 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–33–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 276

[Release No. IA–1732]

Interpretation of Section 206(3) of the Investment Advisers Act of 1940

AGENCY: Securities and Exchange Commission.

ACTION: Interpretation.

SUMMARY: The Securities and Exchange Commission ("Commission") is publishing two interpretive positions under Section 206(3) of the Investment Advisers Act of 1940. Section 206(3) prohibits any investment adviser from engaging in or effecting a transaction on behalf of a client while acting either as principal for its own account, or as broker for a person other than the client, without disclosing in writing to the client, before the completion of the transaction, the adviser's role in the transaction and obtaining the client's consent. The first interpretive position identifies the points at which an adviser may obtain its client's consent to a principal or agency transaction. The second interpretive position identifies certain transactions for which an adviser would not be acting as broker within the meaning of Section 206(3).

DATES: Release No. IA–1732 is added to the list in Part 276 as of July 17, 1998. The first interpretive position in Release No. IA–1732 is effective on September 21, 1998. The second interpretive position in Release No. IA–1732 is effective on July 23, 1998.

FOR FURTHER INFORMATION CONTACT: Douglas Scheidt, Associate Director and Chief Counsel, Karrie McMillan, Assistant Chief Counsel, or Eileen Smiley, Senior Counsel, 202/942–0660, Mail Stop 5–6, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 206(3) of the Investment Advisers Act of 1940 [1] makes it unlawful for any investment adviser, directly or indirectly "acting as principal for his own account, knowingly to sell any security to or purchase any security from a client, or acting as broker for a person other than such client, knowingly to effect any sale or purchase of any security for the account of such client, without disclosing to such client in writing before the completion of such transaction the capacity in which he is acting and obtaining the consent of the client to such transaction." [2] Section 206(3) thus imposes a prior consent requirement on any adviser that acts as principal in a transaction with a client, or that acts as broker (that is, an agent) in connection with a transaction for, or on behalf of, a client.[3]

In a principal transaction, an adviser, acting for its own account, buys a security from, or sells a security to, the account of a client. In an agency transaction, an adviser arranges a transaction between different advisory clients or between a brokerage customer and an advisory client. Advisory clients can benefit from both types of transactions, depending on the circumstances, by obtaining a more favorable transaction price for the securities being purchased or sold than otherwise available. Principal and agency transactions, however, also may pose the potential for conflicts between the interests of the adviser and those of the client.

The wording and legislative history of Section 206(3) indicate that Congress recognized that both principal and agency transactions create the potential for advisers to engage in self-dealing.[4] Principal transactions, in particular, may lead to abuses such as price manipulation or the placing of

[1] 15 U.S.C. 80b–1, *et seq.* (the "Advisers Act").

[2] Section 206(3) expressly excludes any transaction between a broker or dealer and its customer if the broker or dealer is not also acting as an investment adviser in relation to the transaction. 15 U.S.C. 80b–6(3).

[3] We and our staff have applied Section 206(3) to apply not only to principal and agency transactions engaged in or effected by any adviser, but also to certain situations in which an adviser causes a client to enter into a principal or agency transaction that is effected by a broker-dealer that controls, is controlled by, or is under common control with, the adviser. Staff no-action letter, Hartzmark & Co. (available Nov. 11, 1973) (applying Section 206(3) when an adviser effects transactions through its broker-dealer parent). *See also* Advisers Act Release No. 589 (June 1, 1977) [42 FR 29300] ("Release No. 589") (when adopting Rule 206(3)-2 under the Advisers Act, the non-exclusive safe harbor available for certain agency transactions, we expanded the rule to cover transactions effected through such affiliated broker-dealers).

[4] *See* Investment Trusts and Investment Companies: Hearings on S. 3580 Before the Subcomm. of the Comm. on Banking and Currency, 76th Cong., 3d Sess. 320 (1940) (statement of David Schenker, Chief Counsel, Securities and Exchange Commission Investment Trust Study) (hereafter "Senate Hearings") ("I think it is the Commission's recommendation that all self-dealing between the investment counselor and the client should be stopped.").

unwanted securities into client accounts.[5] When an adviser engages in an agency transaction on behalf of a client, it is primarily the incentive to earn additional compensation that creates the adviser's conflict of interest.[6] In adopting Section 206(3), Congress recognized the potential for these abuses, but did not prohibit advisers entirely from engaging in all principal and agency transactions with clients. Rather, Congress chose to address these particular conflicts of interest by imposing a disclosure and client consent requirement in Section 206(3) of the Advisers Act.

Certain of our settled enforcement actions[7] have raised questions regarding our interpretation of specific aspects of Section 206(3). We are concerned that unless we clarify these issues, advisers will unnecessarily avoid engaging in principal and agency transactions that may serve their clients' best interests. Thus, we are taking this opportunity to clarify that: (1) an adviser may obtain client consent for purposes of Section 206(3) to a principal or agency transaction after execution, but prior to settlement, of the transaction; and (2) an adviser is not "acting as broker" within the meaning of the Section if the adviser receives no compensation (other than its advisory fee) for effecting a particular agency transaction between advisory clients.

II. An Adviser Must Obtain the Informed Consent of Its Client to a Section 206(3) Transaction Before Settlement of the Transaction

Section 206(3) prohibits any adviser from engaging in or effecting a principal or agency transaction with a client without disclosing in writing to the client, "before the completion of such transaction," the capacity in which the adviser is acting and obtaining the client's consent. The Advisers Act, however, does not define when a transaction is "completed" for purposes of section 206(3).

In *Piper Capital*,[8] we found that an adviser violated Section 206(3) in two ways: in some instances, the adviser failed to provide the necessary disclosure to clients; in other instances, the adviser failed to obtain client consent before the completion of principal transactions. Footnote 1 in the *Piper Capital* Order states that "the phrase 'completion of such transaction' under Section 206(3) of the Advisers Act * * * mean[s] prior to the execution of the transaction."

A. Practical Concerns

The footnote in the *Piper Capital* Order has raised concern among investment advisers who assert that it effectively requires investment advisers to obtain client consent prior to executing a principal or agency transaction, a point in time earlier than investment advisers previously had interpreted Section 206(3) to require. Advisers argue that obtaining client consent prior to execution of a transaction raises practical compliance difficulties for investment advisers. Finally, advisers assert that the *Piper Capital* position has raised confusion among investment advisers regarding their disclosure obligations with respect to principal and agency transactions with clients.[9] It is our understanding that advisers find it difficult to satisfy their disclosure obligations under Section 206(3) prior to the execution of a transaction because of the practical difficulties of contacting some clients within a relatively short time, during which the market can move.

Representatives of the investment advisory industry have expressed concern to us and our staff that the practical difficulties caused by the *Piper Capital* position have discouraged advisers from engaging at all in principal transactions with clients, contrary to the intent of Congress in enacting Section 206(3).[10] Industry representatives thus have sought clarification of our interpretation of the phrase "before the completion of such transaction" so that they can reconcile the timing of disclosure and consent with the types of disclosure that they must provide to clients when soliciting consent to a principal or agency transaction.

B. The Disclosure and Consent Required Under Section 206(3) of the Advisers Act

We are taking this opportunity to clarify our view as to aspects of the disclosure obligation of an adviser seeking to engage in a principal or agency transaction with an advisory client. In response to the practical concerns discussed above, we also are clarifying when an adviser may obtain client consent to a principal or agency transaction as required by Section 206(3).

1. The Adviser Must Disclose Potential Conflicts of Interest To Ensure That a Client's Consent Is Informed

Section 206(3) expressly requires that a client be given written disclosure of the capacity in which the adviser is acting, and that the adviser obtain its client's consent to a Section 206(3) transaction. The protection provided to advisory clients by the consent requirement of Section 206(3) would be weakened, however, without sufficient disclosure of the potential conflicts of interest and the terms of a transaction. In our view, to ensure that a client's consent to a Section 206(3) transaction is informed, Section 206(3) should be read together with Sections 206(1) and (2)[11] to require the adviser to disclose

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[5] *See* Senate Hearings at p. 322 ("[I]f a fellow feels he has a sour issue and finds a client to whom he can sell it, then that is not right * * * .") (Statement of David Schenker).

[6] Rule 206(3)–2 [17 CFR 275.206(3)–2] under the Advisers Act reflects the significance of an adviser's receipt of compensation in agency transactions effected by the adviser. The rule requires that the prospective client consent form and all subsequent trade confirmations indicate that the adviser will receive compensation in connection with any agency transaction. *See* Release No. 589.

[7] *See In the Matter of Piper Capital Management, Inc.*, Advisers Act Release No. 1435 (Aug. 11, 1994) ("*Piper Capital*"). *See also In the Matter of Dimitri Balatsos*, Advisers Act Release No. 1324 (Aug. 18, 1992) ("*Balatsos*"); *In the Matter of Micael L. Smirlock*, Advisers Act Release No. 1393 (Nov. 29, 1993) ("*Smirlock*").

[8] *See Piper Capital, id.*

[9] In 1945, our General Counsel took the position that, under Sections 206(1), (2) and (3) of the Advisers Act, an investment adviser must disclose to an advisory client any adverse interest that the adviser might have, "together with any other information in his possession which the client should possess" to facilitate an informed decision by the client whether to consent to a principal transaction. *See* Advisers Act Release No. 40 (Jan. 5, 1945) [11 FR 10997] ("Release No. 40"). In the view of our General Counsel at the time, that information included, at a minimum: (1) the capacity in which the adviser proposed to act; (2) the cost of the security to the adviser if sold to a client; (3) the price at which securities could be resold if purchased from a client; and (4) the best price at which the transaction could be effected, if more advantageous to the client than the actual transaction price ("best price"). In a subsequent release adopting a rule creating a limited exemption from Section 206(3) for certain broker-dealers, we took the position that whether the specific items identified in Release No. 40 must be disclosed depends upon their materiality to a particular transaction, and the extent to which the client is relying on the adviser concerning that transaction. *See* Advisers Act Release No. 470 (Aug. 20, 1975) [40 FR 38158] (adopting Rule 206(3)–1) [17 CFR 275.206(3)–1] ("Release No. 470").

[10] Although Section 206(3) applies to both principal and agency transactions, the investment advisory industry has raised questions about the operation of the Section primarily in the context of principal transactions. We believe that this result may reflect the operation of an existing rule under the Advisers Act. Advisers seeking to engage in agency transactions typically rely on Rule 206(3)–2 [17 CFR 275.206(3)–2] under the Advisers Act, which provides a non-exclusive safe harbor for certain agency transactions. Our interpretive position in Part II of this release applies to both principal transactions and to those agency transactions for which an adviser does not rely on Rule 206(3)–2 [17 CFR 275.206(3)–2].

[11] Sections 206(1) and 206(2) of the Advisers Act also impose on advisers an affirmative duty of good faith with respect to their clients and a duty of full and fair disclosure of all facts that are material to the advisory relationship with their clients. *See* Release No. 470, *supra*, n. 9 (whether Sections 206(1) and (2) require disclosure of specific facts

facts necessary to alert the client to the adviser's potential conflicts of interest in a principal or agency transaction.[12]

2. The Timing of Consent

Section 206(3) requires that an adviser disclose to its client in writing before the "completion" of a Section 206(3) transaction the capacity in which it is acting and obtain the client's consent to the transaction. We believe that, for purposes of Section 206(3), a securities transaction is completed upon settlement, not upon execution. This interpretation is consistent with the express terms of Section 206(3) and the legislative intent underlying the Section. Implicit in the phrase "before the completion of such transaction" is the recognition that a securities transaction involves various stages before it is "complete." The phrase "completion of such transaction" on its face would appear to be the point at which all aspects of a securities transaction have come to an end. That ending point of a transaction is when the actual exchange of securities and payment occurs, which is known as "settlement."[13] The date of execution (*i.e.*, the trade date) marks an earlier point of a securities transaction at which the parties have agreed to its terms and are contractually obligated to settle the transaction.[14] Interpreting the phrase "completion of such transaction" to mean at the time of settlement of the transaction is consistent with Congress' intent in enacting Section 206(3) by facilitating disclosure by advisers of material information about a transaction and informed consent by advisory clients. Thus, in our view, an adviser may comply with Section 206(3) either by obtaining client consent prior to execution of a principal or agency transaction, or after execution but prior to settlement of the transaction.

a. Obtaining pre-execution consent. Because of market movements, an adviser may not be able to provide its client with a final execution price, or best price or final commission charges as contemplated by Release Nos. 40, 470 and 557 when soliciting pre-execution consent to an agency or a principal transaction. In these circumstances, however, an adviser should provide comparable information that is sufficient to identify and explain the potential conflicts of interest arising from the capacity in which the adviser is acting, that is as principal or agent, when engaging in or effecting a Section 206(3) transaction. For instance, prior to obtaining pre-execution consent, an adviser could transmit to the client the current quoted price for a proposed transaction, and, if applicable, current best price information[15] and proposed commission charges. Under these circumstances, because the client has been informed about the potential conflicts of interest, and can refuse to consent to a proposed transaction before it is executed, the adviser has satisfied its disclosure obligation under Section 206(3).

b. Obtaining post-execution, pre-settlement consent. In our view, in order for a post-execution, pre-settlement consent mechanism to comply with Section 206(3), it must serve the purposes underlying Section 206(3). We believe that a post-execution, pre-settlement consent mechanism would satisfy the requirements of Section 206(3) if it provides both sufficient information for a client to make an informed decision, and the opportunity for the client to consent to a Section 206(3) transaction.

(i) Sufficiency of Information

When soliciting a client's post-execution, pre-settlement consent to a Section 206(3) transaction, an adviser should be able to provide the client with sufficient information regarding the transaction, including information regarding pricing, best price and final commission charges, to enable the client to make an informed decision to consent to the transaction. In our view, if after execution but before settlement of a Section 206(3) transaction, an adviser also provides a client with information that is sufficient to inform the client of the conflicts of interest faced by the adviser in engaging in the transaction, then the adviser will have provided the information necessary for the client to make an informed decision for purposes of Section 206(3).[16]

(ii) Client's Ability to Withhold Consent

One of the concerns cited by Congress when enacting Section 206(3) was the practice of advisers placing unwanted securities in client accounts.[17] An adviser that executes a transaction before obtaining its client's consent must ensure that its client understands that the client is under no obligation to consent to the transaction. In our view, post-execution, pre-settlement consent generally would be effective in addressing the concerns underlying Section 206(3), so long as the adviser has not structured the procedures for obtaining consent in such a manner that the client has no choice but to consent.[18]

about a transaction depends on the "materiality of such facts in each situation and upon the degree of the client's trust and confidence in and reliance on the adviser with respect to the transaction."). *See also* Note to Rule 206(3)–1 [17 CFR 275.206(3)–1] (the exemption from Section 206(3) for certain broker-dealers does not relieve an investment adviser of "any disclosure obligation which, depending upon the nature of the relationship between the investment adviser and the client, may be imposed by subparagraph (1) or (2) of Section 206 * * *").

[12] In three separate releases, we or our staff have identified certain categories of relevant information that advisers may be required to disclose when they execute principal or agency transactions with advisory clients. *See* Release Nos. 40 and 470, *supra* n. 9. *See also* Advisers Act Release No. 557 (Dec. 2, 1976) [41 FR 53808] ("Release No. 557") (in proposing rule 206(3)–2, the non-exclusive safe harbor for certain agency transactions, we identified certain categories of information that generally should be disclosed by an adviser when executing a principal transaction with a client). This release supplements the three prior releases by identifying the information specified in those releases that advisers may not be able to provide to a client prior to the execution of a Section 206(3) transaction. This release discusses comparable information that may be disclosed instead when an adviser seeks to obtain client consent prior to the execution of a Section 206(3) transaction.

[13] *See, e.g.*, 6 L. Loss & J. Seligman, Securities Regulation Ch. 7, p. 29d9 (3d ed. 1990).

[14] The interpretive positions expressed in this release apply only to an adviser's disclosure obligations under Section 206(3) of the Advisers Act. Other provisions of the federal securities laws, including the antifraud provisions of the Securities Exchange Act of 1934 ("Exchange Act"), require that material information about certain transactions be communicated to investors prior to execution of the transaction. *See, e.g.*, Exchange Act Release No. 33743 (Mar. 9, 1994) [59 FR 12767, 12772 n. 49] (in proposing amendments to Rule 10b–10 under the Exchange Act, which governs the duty of brokers to send confirmations of trades to clients, we stated that "[t]he fact that a broker-dealer has met the requirements of Rule 10b–10 should begin the analysis, not end it. The confirmation is delivered after the contract is created. Thus, irrespective of the content of the confirmation, specific terms of the transaction that may affect the customer's investment decision should be disclosed at the time of a purchase or sale of a security."). *See also Radiation Dynamics, Inc.* v. *Goldmuntz*, 464 F.2d 876, 891 (2d Cir. 1972) (court held that, for purposes of insider trading liability under Rule 10b–5 under the Exchange Act, the time of a "purchase or sale" of securities is determined by reference to when the parties are obligated to perform the terms of the transaction, not when final performance occurs.).

[15] Consistent with its obligations under Section 206(3), an adviser, in lieu of disclosing best price information, could undertake to its client to match or better the best price in the market at the time that the adviser receives the client's consent.

[16] As stated above, in three earlier releases, we or our staff have identified certain categories of relevant information that advisers may be required to disclose to identify these potential conflicts of interest when executing principal or agency transactions with advisory clients. *See* n.9 and n.12, *supra*.

[17] *See* n.5 and accompanying text, *supra*.

[18] We understand that, prior to *Piper Capital*, some advisers seeking to comply with Section 206(3) generally disclosed to their clients, before effecting or engaging in any principal or agency transactions, that the adviser would be engaging in the transactions with its clients in the course of providing advisory services to the clients. Prior to the settlement of a specific Section 206(3) transaction, these advisers would provide their

Continued

III. An Investment Adviser is not "Acting as Broker" With Respect to a Particular Agency Transaction Between Advisory Clients if the Adviser Receives No Compensation for Effecting the Transaction

As stated above, Section 206(3) applies when an adviser, "acting as broker for a person other than * * * [a] client," causes the client to buy or sell a security from that other person. The Advisers Act, however, does not define when an investment adviser is "acting as broker" with respect to a particular agency transaction.

Industry representatives have raised questions with our staff about our interpretation of when an adviser is acting as broker for purposes of Section 206(3). In one settled enforcement action, we found that a portfolio manager caused an investment adviser to violate Section 206(3) by failing to obtain client consent to an agency transaction between advisory clients,[19] even though the adviser received no compensation (other than its advisory fee) for effecting the transaction.[20] In *Smirlock*,[21] a subsequent settled enforcement action involving similar circumstances, we made no finding that the portfolio manager caused the investment adviser to violate 206(3).

We have concluded that if an investment adviser receives no compensation (other than its advisory fee), directly or indirectly, for effecting a particular agency transaction between advisory clients, the adviser would not be "acting as broker" within the meaning of Section 206(3).[22] As we note above, it is primarily the incentive to earn additional compensation that creates the adviser's conflict of interest when effecting an agency transaction between advisory clients. This release confirms the interpretive position underlying the *Smirlock* Order.

IV. Conclusion

For the reasons discussed above, we are clarifying, only for purposes of Section 206(3) of the Advisers Act, that: (1) the phrase "before the completion of such transaction" means prior to settlement of the transaction; and (2) an investment adviser is not "acting as broker" if the adviser receives no compensation (other than its advisory fee) for effecting a particular agency transaction between advisory clients.[23]

V. Effective Date

The Administrative Procedure Act ("APA") establishes procedures for agency rulemaking. Section 551 of the APA defines a "rule" to include an "agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy * * *"[24] The Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA") requires that all final agency rules, as defined by Section 551 of the APA, be submitted to Congress for review and requires generally that the effective date of a major rule be delayed sixty days pending Congressional review. A major rule may become effective at the end of the sixty-day review period, unless Congress passes a joint resolution disapproving the rule.[25] Because this release is an agency statement designed to interpret the law, and because it does not fall within one of three exceptions to the definition of a rule for purposes of SBREFA, we have concluded that it is a rule for purposes of SBREFA.[26]

The first interpretive position in this release regarding the points at which an adviser may obtain client consent to a Section 206(3) transaction will become effective September 21, 1998. The Office of the Management and Budget ("OMB") has determined that this first interpretive position is a "major" rule under Chapter 8 of the APA,[27] which was added by SBREFA. The second interpretive position in this release regarding transactions for which an investment adviser would not be "acting as broker" within the meaning of Section 206(3) will become effective July 23, 1998. OMB has determined that this second interpretive position is a "minor" rule under SBREFA.

List of Subjects in 17 CFR Part 276

Securities.

Amendments to the Code of Federal Regulations

For the reasons set forth above, the Commission is amending Title 17, Chapter II of the Code of Federal Regulations as follows:

PART 276—INTERPRETATIVE RELEASES RELATING TO THE INVESTMENT ADVISERS ACT OF 1940 AND THE GENERAL RULES AND REGULATIONS THEREUNDER

Part 276 is amended by adding Release No. IA–1732 and the release date of July 17, 1998, to the list of interpretative releases.

By the Commission.

Dated: July 17, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19565 Filed 7–22–98; 8:45 am]

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clients with the prices at which transactions were executed and, if applicable, best price information. Some of these advisers appear to have interpreted Section 206(3) as not requiring an adviser to bear any loss in the value of securities involved in a principal or agency transaction between the time of execution and the time of client consent. These advisers followed the practice of conditioning a client's refusal to provide post-execution, pre-settlement consent on the client's incurring any loss in the value of the securities between the time of execution and the client's refusal to consent to the transaction. Although we agree that Section 206(3) by its terms does not require that an adviser engaging in or effecting a principal or agency transaction with a client bear any loss in value of the securities, we seriously question whether a consent mechanism that conditions a client's refusal to provide post-execution, pre-settlement consent on the client's incurring any loss in the value of the securities is consistent with our interpretation of Section 206(3). In such a case, it appears to us that the consent procedure could, in effect, undermine the client's right to choose whether or not to consent to a Section 206(3) transaction.

[19] By the phrase "agency transaction between advisory clients," we mean an agency transaction arranged by an investment adviser whereby one advisory client sells a security to a different advisory client of the investment adviser.

[20] *See Balatsos, supra* n.7 (the portfolio manager arranged an agency transaction between two advisory clients to "reallocate" newly issued securities prior to settlement after realizing that the selling client had previously instructed him to liquidate all of the holdings in its account before the later-than-anticipated settlement date of the securities).

[21] *See Smirlock, supra* n.7 (the portfolio manager directed an unaffiliated broker-dealer to effect agency transactions between advisory clients).

[22] Sections 206(1) and (2) of the Advisers Act impose a fiduciary duty on advisers with respect to their clients and a duty of full and fair disclosure of all material facts. *See* n.11, *supra*. Thus, even though an adviser may not be "acting as broker" within the meaning of Section 206(3), Sections 206(1) or (2) may require the adviser to disclose information about agency transactions that are not subject to Section 206(3).

[23] To the extent that the positions expressed in this release are inconsistent with earlier positions, such as those announced in *Piper Capital* and *Balatsos*, those earlier positions are superseded. For example, in a staff no-action letter, Salomon Brothers Asset Management, Inc (available Oct. 10, 1990) ("Salomon Brothers"), our staff took the position that Section 206(3) applied to agency transactions in certain tax-exempt securities effected by an adviser even though the adviser would receive no compensation for effecting the transactions. This release also supersedes that position taken by the staff in Salomon Brothers.

[24] 5 U.S.C. 551(4).

[25] Pub. L. No. 104–121, Title II, 100 Stat. 857 (1996). Under SBREFA, a rule is "major" if it is likely to result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers or individual industries, or (3) significant adverse effects on competition, investment, or innovation. 5 U.S.C. 804(2).

[26] 5 U.S.C. 804(3)(A)—(C) (exceptions to the definition of a "rule" for purposes of SBREFA).

[27] 5 U.S.C. 801

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM96–1–008; Order No. 587–H]

Standards for Business Practices of Interstate Natural Gas Pipelines

Issued: July 15, 1998.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule and Order Establishing Implementation Date.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations governing standards for conducting business practices and electronic communication with interstate natural gas pipelines. The Commission is incorporating by reference the standards relating to intra-day nominations promulgated March 12, 1998 by the Gas Industry Standards Board (GISB). The Commission also is establishing the implementation date for intra-day nomination regulations adopted in Order No. 587–G published in the **Federal Register** April 23, 1998.

DATES: *Effective Date:* The rule is effective August 24, 1998.

Incorporation by Reference: The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 24, 1998.

Implementation Date: Pipelines are to implement the intra-day nomination regulations adopted in this rule and in Order No. 587–G published at 63 FR 20072 by November 2, 1998.

ADDRESSES: Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, (202) 208–2294; Marvin Rosenberg, Office of Economic Policy, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–1283; Kay Morice, Office of Pipeline Regulation, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0507.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Room 2A, Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission. CIPS can be accessed via Internet through FERC's Homepage (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. The full text of this document will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS is also available through the Commission's electronic bulletin board service at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397, if dialing locally, or 1–800–856–3920, if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. User assistance is available at 202–208–2474 or by E-mail to CipsMaster@FERC.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Homepage using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by E-mail to RimsMaster@FERC.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn System Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

Final Rule Adopting Standards for Intra-Day Nominations and Order Establishing Implementation Date

Before Commissioners: James J. Hoecker, Chairman; Vicky A. Bailey, William L. Massey, Linda Breathitt, and Curt Hébert, Jr.

The Federal Energy Regulatory Commission (Commission) is amending § 284.10 of its regulations to incorporate by reference the most recent standards dealing with intra-day nominations and nomination and scheduling procedures promulgated by the Gas Industry Standards Board (GISB) on March 12, 1998. The Commission adopted regulations regarding intra-day nominations in Order No. 587–G [1] (§ 284.10(c)(1)(i)), but deferred implementation of these regulations until GISB had considered, and the Commission had adopted, implementing standards. This rule adopts the necessary implementation standards, and, therefore, Commission is establishing November 2, 1998 as the date for pipeline implementation of the requirements of this rule and the requirements of § 284.10(c)(1)(i).

1. Background

In Order Nos. 587, 587–B, and 587–C [2] the Commission adopted regulations to standardize the business practices and communication methodologies of interstate pipelines in order to create a more integrated and efficient pipeline grid. In those orders, the Commission incorporated by reference consensus standards developed by GISB, a private, consensus standards developer composed of members from all segments of the natural gas industry.

In Order No. 587, the Commission adopted a standard requiring pipelines to permit shippers to make at least one intra-day nomination per day.[3] An intra-day nomination is a nomination submitted after the initial nomination deadline at 11:30 a.m. to change a shipper's scheduled quantities for the next gas day.[4]

In Order No. 587–C, the Commission did not adopt additional standards approved by GISB concerning intra-day nominations, because the standards did not clearly outline the pipelines' obligations. The Commission further noted that pipelines had implemented GISB's previous intra-day standards in divergent ways, for instance, by establishing different times for submission of intra-day nominations. These differences prevented shippers from coordinating their intra-day nominations across the pipeline grid. The Commission gave GISB and the industry until September 1, 1997, to propose additional standards that would create the needed uniformity in intra-day procedures.

[1] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), III FERC Stats. & Regs. Regulations Preambles ¶ 31,062 (Apr. 16, 1998).

[2] Standards For Business Practices Of Interstate Natural Gas Pipelines, Order No. 587, 61 FR 39053 (Jul. 26, 1996), III FERC Stats. & Regs. Regulations Preambles ¶ 31,038 (Jul. 17, 1996), Order No. 587–B, 62 FR 5521 (Feb. 6, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,046 (Jan. 30, 1997), Order No. 587–C, 62 FR 10684 (Mar. 10, 1997), III FERC Stats. & Regs. Regulations Preambles ¶ 31,050 (Mar. 4, 1997).

[3] 18 CFR 284.10(b)(1)(i) (1997), Nominations Related Standards 1.3.10.

[4] 18 CFR 284.10(b)(1)(i) (1997), Nominations Related Standards 1.2.4.

On September 2, 1997, GISB filed a report detailing its progress in reaching consensus on the intra-day standards. While GISB reported making significant progress in developing the standards, it highlighted conflicts between its members that were inhibiting completion of the standards. The disagreements concerned the circumstances under which intra-day nominations by shippers holding firm capacity should be given scheduling priority over previously scheduled interruptible service.

In Order No. 587–G, the Commission resolved these conflicts. It issued a regulation requiring pipelines to accord an intra-day nomination submitted by a firm shipper scheduling priority over nominated and scheduled volumes for interruptible shippers.[5] The Commission, however, deferred implementation of this requirement until GISB had developed, and the Commission had adopted, standards to implement the regulation.

On April 16, 1998, the Commission issued a Notice of Proposed Rulemaking (NOPR),[6] proposing to adopt standards governing intra-day nominations adopted by a consensus of the GISB membership on March 12, 1998.[7] The proposed date for implementing these standards was September 1, 1998.

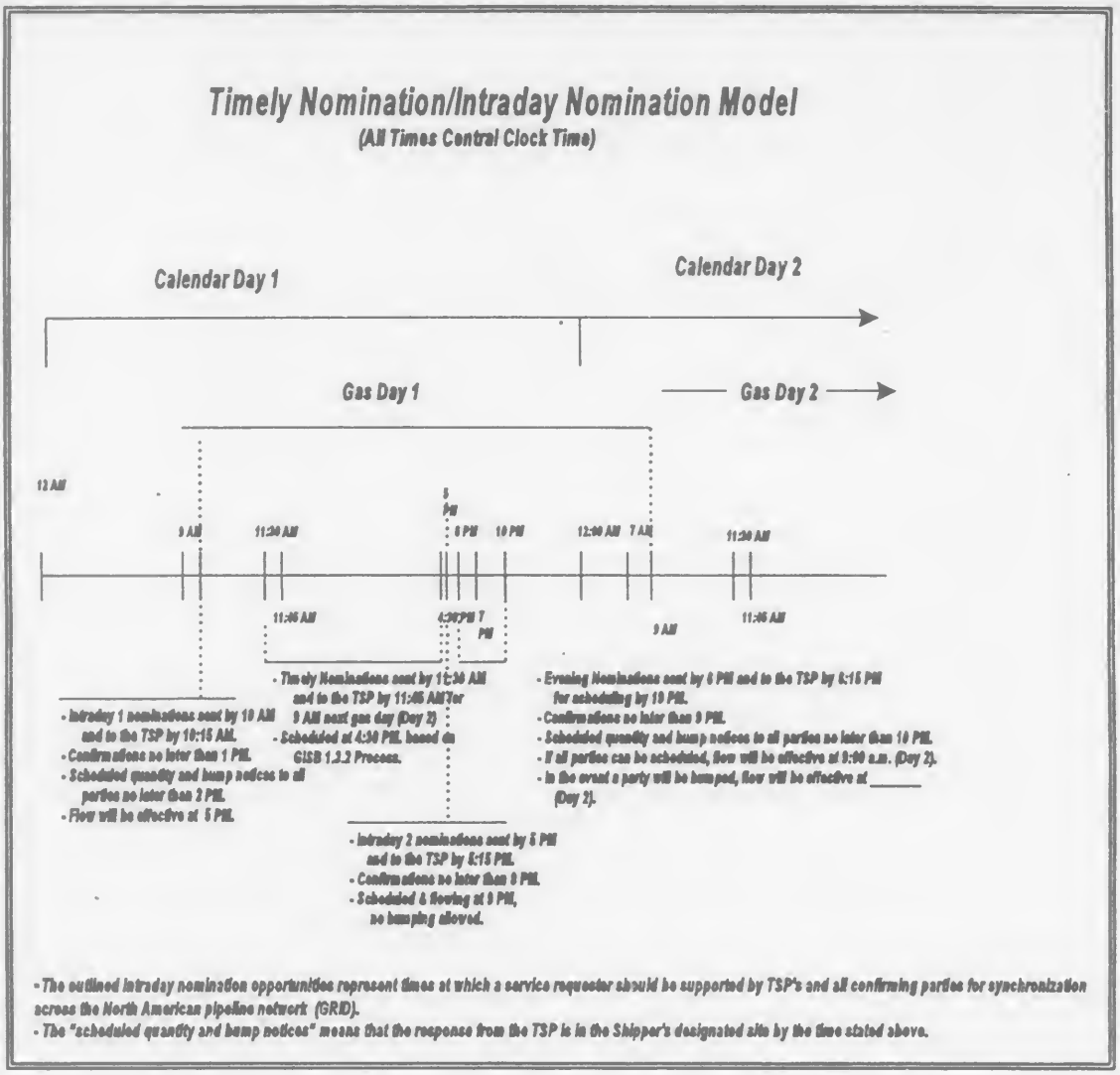
The standards establish three synchronization times for shippers to coordinate their intra-day nominations: 6 p.m. to take effect the next gas day; and 10 a.m. and 5 p.m. to take effect on the same gas day. Under the standards, the 10 a.m. intra-day nomination would become effective, if confirmed, at 5 p.m. the same day, with any bumping notice to interruptible shippers given by 2 p.m. The 5 p.m. intra-day nomination would become effective, if confirmed, at 9 p.m. the same day. No bumping is allowed at the 5 p.m. nomination. The 6 p.m. intra-day nomination would become effective, if confirmed, at 9 a.m. the next morning if all parties can be scheduled and bumping notice for the 6 p.m. intra-day nomination would be given by 10 p.m. GISB, however, did not establish the time at which a bumping intra-day nomination would become effective, leaving that determination for the Commission. The following chart illustrates the nomination timeline (with a blank for the effective time of a bumping 6 p.m. nomination).[8]

[5] Rehearing of Order No. 587–G is pending.

[6] Standards for Business Practices of Interstate Natural Gas Pipelines, Notice of Proposed Rulemaking, 63 FR 19861 (Apr. 22, 1998), IV FERC Stats. & Regs. Proposed Regulations ¶ 32,529 (Apr. 16, 1998).

[7] The new standards are 1.1.17 through 1.1.19, 1.2.8 through 1.2.12, 1.3.39 through 1.3.44. In addition, modifications were made to existing standards. Standards 1.2.7, 1.3.10, and 1.3.12 were deleted. Standards 1.3.2, 1.3.20, 1.3.22, and 1.3.32 were revised.

[8] The term "TSP" in the chart stands for transportation service provider.



The standards also establish protocols for pipeline processing of nominations and confirmations for both regular and intra-day nominations.

As discussed above, the standards do not establish the time at which a firm intra-day nomination submitted on the day prior to gas flow (6 p.m.), which bumps interruptible service, would take effect. The standards leave that time to be determined by the Commission. The Commission already has resolved this issue in Order No. 587–G, adopting a regulation requiring that an intra-day nomination submitted on the day prior to gas flow will take effect at the start of the gas day, 9 a.m. central clock time (CCT).[9]

[9] 18 CFR 284.10(c)(1)(i)(B). Central clock time adjusts for daylight savings time.

Comments on the NOPR were filed by American Gas Association (AGA), Enron Interstate Pipelines (Enron), Natural Gas Clearinghouse (NGC), Natural Gas Supply Association (NGSA), ProLiance Energy, LLC (ProLiance), TransCapacity Limited Partnership (TransCapacity), and Williston Basin Interstate Pipeline Company (Williston Basin).

2. Discussion

The Commission is incorporating the GISB intra-day nomination standards into its regulations. As the Commission found in Order No. 587, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry.[10] Moreover, since the industry itself has to conduct business under these standards, the standards should reflect those business practices that have the widest possible support. Section 12(d) of the National Technology Transfer and Advancement Act (NTT&AA) of 1995 requires federal agencies to, whenever possible, use technical standards developed by voluntary consensus standards

[10] Order No. 587, 61 FR at 39057, GISB's III FERC Stats. & Regs. Regulations Preambles at 30,059–60. GISB's consensus process requires a super-majority vote of 17 out of 25 members with support from at least two members from each of the five industry segments—interstate pipelines, local distribution companies, gas producers, end-users, and services (including marketers and computer service providers). For final approval, 67% of GISB's general membership must ratify the standards.

organizations, like GISB, to carry out policy objectives or activities.[11]

Adoption of these standards will further the Commission's policy of adopting regulations that create a more integrated and efficient interstate pipeline grid. The adoption of these standards will expand from one to three the number of intra-day opportunities to which shippers are entitled and will, therefore, provide them with greater opportunities to change their nominated quantities to better accord with changes in weather or other market circumstances. By creating times at which shippers can synchronize their intra-day nominations across pipelines, these standards, together with the Commission's regulations adopted in Order No. 587–G, will create the uniform process shippers need to coordinate their intra-day nominations across the pipeline grid. The standards governing nomination and confirmation procedures, further, should help create a more reliable nomination process in which pipelines will receive accurate information, so they can schedule nominations and intra-day nominations that their systems can accommodate.

The commenters all support adoption of the GISB standards, although some suggest modifications or clarifications. Enron requests that the Commission extend the implementation date from September 1, 1998, until November 1, 1998, to give those pipelines which currently do not permit firm intra-day nominations to bump interruptible nominations sufficient time to reprogram their computers to accommodate bumping. To permit pipelines to implement these standards with a minimum of errors, the Commission will defer the implementation date until November 2, 1998. This extension still will provide shippers with the additional intra-day flexibility accorded by the standards in time for the winter heating season.

NGC and NGSA request clarification of revised standard 1.3.32 which provides that:

> For services that provide for intraday nominations and scheduling, there is no limitation as to the number of intraday nominations (line items as per GISB Standard 1.2.1) which a service requester may submit at any one standard nomination cycle or in total across all standard nomination cycles. Transportation Service Providers may (for an interim period expiring on April 1, 1999) limit Service Requesters to one transmittal of nominations per standard intraday nomination cycle, (excluding corrections of errors identified in the Quick Response).

They contend that the sentence permitting pipelines to limit shippers' intra-day nominations prior to April 1, 1999, to one nomination per intra-day nomination cycle should be interpreted to permit one intra-day nomination per contract.

The requested clarification comports with Commission policy. Prior to this change, Commission regulations required that the pipelines provide shippers with only one intra-day nomination opportunity.[12] The Commission's policy has been that the single intra-day nomination opportunity is available for each contract between the shipper and the pipeline and that the shipper can use this opportunity to request changes at all receipt and delivery points.[13]

NGC and NGSA further point out that the regulations provide for pipelines to notify interruptible shippers that they are being bumped, but that the regulations do not specify the form of notice. They maintain that notice limited to the scheduled quantities document is not sufficient,[14] because gas producers would have to monitor pipeline web sites until 10 p.m. at night to make sure they receive the notice. They argue that the bumping notice should be provided by telephone or facsimile or, at least, by Internet E-mail or direct Internet notification to the shipper's URL address, the methods the Commission chose for pipeline notification of operational flow orders (OFOs) in Order No. 587–G.[15]

The Commission finds this request reasonable and will expect that, in addition to notification through the scheduled quantities statement, pipelines should provide direct notice of bumping using Internet E-mail or direct notification to a shipper's Internet URL address when they comply with the requirement in Order No. 587–G. Until that time, the pipelines should provide notice of bumping in the same manner they currently provide notice of OFOs.

TransCapacity and NGC submitted comments that are not germane to this rulemaking, but instead relate to issues resolved in Order No. 587–G. TransCapacity requests that the Commission make clear that secondary firm transportation once scheduled has priority over primary firm intra-day nominations. As the Commission found in Order No. 587–G, its regulations provide only that firm intra-day nominations have priority over nominated and scheduled interruptible service. The Commission did not revise or change current pipeline tariffs with respect to the scheduling priority of firm primary and firm secondary transportation.[16]

NGC contends that the Commission should revisit its determination in Order No. 587–G that the 6 p.m. intra-day nomination should take effect at 9 a.m. or, in the alternative, that shippers be given an overnight rescheduling opportunity. These policy issues were resolved in Order No. 587–G[17], which is pending rehearing. Such issues are not appropriately raised with respect to the standards adopted in this rule, which involve only the schedule for intra-day nominations.

3. Implementation Schedule for Intra-Day Nominations

In Order No. 587–G, the Commission deferred implementation of its regulations relating to intra-day nominations, § 284.10(c)(1)(i), until GISB developed, and the Commission adopted, implementing standards. This order adopts the necessary implementation standards, and the Commission is establishing a November 2, 1998 implementation date for the standards adopted in this order and § 284.10(c)(1)(i) of the Commission regulations. Pipelines must file revised tariff sheets to implement these regulations not more than 60 and not less than 30 days prior to the November 2, 1998 implementation date.

4. Information Collection Statement

OMB's regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB shall assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Rule shall not be penalized for failing to respond to these collections of information unless the collections of information display valid OMB control numbers.

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[11] Pub. L. 104–113, section 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

[12] Former 18 CFR 284.10(b)(1)(i) (1997), Nominations Related Standards 1.3.10 (1997).

[13] *See* Tennessee Gas Pipeline Company, 78 FERC ¶ 61,007, at 61,019–20 (1997); Texas Eastern Transmission Corporation, 77 FERC ¶ 61,175, at 61,649 (1996).

[14] The scheduled quantities document is a electronic transmittal from the pipeline showing the quantity of gas scheduled. 18 CFR 284.10(b)(1)(i) (1997).

[15] 18 CFR 284.10(c)(3)(vi).

[16] Order No. 587–G, 63 FR at 20079; III FERC Stats. & Regs. Regulations Preambles at 30,673–74.

[17] 18 CFR 284.10(c)(1)(B) (intra-day nomination prior to gas flow will take effect at 9 a.m. CCT); Order No. 587–G, 63 FR at 20079, III FERC Stats. & Regs. Regulations Preambles at 30,673 (Commission will not require overnight rescheduling opportunity).

The collections of information related to the subject of this Final Rule fall under FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal) (OMB Control No. 1902–0154) and FERC–549–C, Standards for Business Practices of Interstate Natural Gas Pipelines (OMB Control No. 1902–0174). The following estimates of burden are related only to this rule and include only the costs of complying with GISB's new and revised standards relating to intra-day nominations. The burden estimates are primarily related to start-up and will not be on-going costs.

Public Reporting Burden: (Estimated Annual Burden).

Data collection	Number of respondents	Number of responses per respondent	Estimated burden hours per response	Total annual hours
FERC–549C	93	1	45	4,185
FERC–545	93	1	47	4,371

The total annual hours for collection (including recordkeeping) is estimated to be 8,556. The average annualized cost for all 93 respondents is projected to be the following:

	FERC–549C	FERC–545	Totals
Annualized Capital/Startup Costs	$220,252	$230,041	$450,293
Annualized Costs (Operations & Maintenance)	0	0	0
Total Annualized Costs	$220,252	$230,041	$450,293

The Commission regulations adopted in this order are necessary to further the process begun in Order No. 587 of standardizing business practices and electronic communications with interstate pipelines. Adoption of these regulations will provide shippers with increased options to change their scheduled gas quantities to reflect weather and other changed conditions and enable shippers to more efficiently transact business across multiple pipelines.

The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information requirements. The information required in this Final Rule will be reported directly to the industry users and later be subject to audit by the Commission. This information also will be retained for a three year period. The implementation of these data requirements will help the Commission carry out its responsibilities under the Natural Gas Act and conforms to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

Interested persons may obtain information on the reporting requirements by contacting the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426 [Attention: Michael Miller, Information Services Division, 202–208–1415] or the Office of Management and Budget [Attention: Desk Officer for the Federal Energy Regulatory Commission 202–395–3087].

5. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[18] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[19] The actions taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[20] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

6. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA)[21] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations adopted here impose requirements only on interstate pipelines, which are not small businesses, and, these requirements are, in fact, designed to reduce the difficulty of dealing with pipelines by all customers, including small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations proposed herein will not have a significant adverse impact on a substantial number of small entities.

7. Effective Date

These regulations become effective August 24, 1998. The Commission has concluded, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a "major rule" as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Part 284

Continental shelf, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements.

By the Commission.

David P. Boergers,

Acting Secretary.

In consideration of the foregoing, the Commission amends Part 284, Chapter I, Title 18, *Code of Federal Regulations,* as set forth below.

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

1. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7532; 43 U.S.C. 1331–1356.

2. In section 284.10, paragraph (b)(1)(i) is revised to read as follows:

§ 284.10 Standards for Pipeline Business Operations and Communications.

* * * * *

(b) * * *

(1) * * *

[18] Order No. 486, Regulations Implementing the National Environment Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. Preambles 1986–1990 ¶ 30,783 (1987).

[19] 18 CFR 380.4.

[20] *See* 18 CFR 380.4(a)(2)(ii), 380.4(a)(5), 380.4(a)(27).

[21] 5 U.S.C. 601–612.

(i) Nominations Related Standards (Version 1.2, July 31, 1997), with the addition of standards 1.1.17 through 1.1.19, 1.2.8 through 1.2.12, 1.3.39 through 1.3.44 (as approved March 12, 1998), the modification of standards 1.3.2, 1.3.20, 1.3.22, 1.3.32 (as approved March 12, 1998), and the deletion of standards 1.2.7, 1.3.10, and 1.3.12;

* * * * *

[FR Doc. 98–19368 Filed 7–22–98; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF VETERANS

38 CFR Part 17

RIN 2900–AH66

Payment for Non-VA Physician Services Associated with Either Outpatient or Inpatient Care Provided at Non-VA Facilities

AGENCY: Department of Veterans Affairs.
ACTION: Final rule.

SUMMARY: This document amends Department of Veterans Affairs (VA) medical regulations concerning payment for non-VA physician services that are associated with either outpatient or inpatient care provided to eligible VA beneficiaries at non-VA facilities. Generally, when a service-specific reimbursement amount has been calculated under Medicare's Participating Physician Fee Schedule, VA would pay the lesser of the actual billed charge or the calculated amount. Also, when an amount has not been calculated or when the services constitute anesthesia services, VA would pay the amount calculated under a 75th percentile formula or, in certain limited circumstances, VA would pay the usual and customary rate. Adoption of this final rule is intended to establish reimbursement consistency among federal health benefits programs to ensure that amounts paid to physicians better represent the relative resource inputs used to furnish a service, and to achieve program cost reductions. Further, consistent with statutory requirements, the regulations continue to specify that VA payment constitutes payment in full.

DATES: Effective Date: August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Abby O'Donnell, Health Administration Service (10C3), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8307. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In a document published in the **Federal Register** on July 22, 1997 (62 FR 39197), we proposed to amend the medical regulations concerning payment (regardless of whether or not authorized in advance) for non-VA physician services associated with either outpatient or inpatient care provided to eligible VA beneficiaries at non-VA facilities. We provided a 60-day comment period, which ended September 22, 1997. We received comments from seven sources.

For reasons explained below, the final rule contains only one conversion factor for calculations under Medicare's Participating Physicians Fee Schedule and the proposed provisions are not made applicable for anesthesia services. Otherwise, no changes are made in response to comments and, based on the rationale set forth in the proposed rule and this document, the provisions of the proposed rule are adopted as a final rule.

Comments

All of the comments opposed the proposal based on the assertion that VA should not lessen physician fees.

- Three commenters asserted that VA should not use Medicare's Participating Physicians Fee Schedule because it was designed for Medicare patient populations and not for VA populations.
- One commenter opposed the use Medicare's Participating Physicians Fee Schedule by asserting that VA should not use the geographic adjustment factors unless necessary "to achieve explicit policy goals (e.g., targeted adjustments for demonstrated shortfalls in access to care)."
- Two commenters opposed the use of Medicare's Participating Physicians Fee Schedule by asserting that VA should not use Medicare's conversion factors. They recommended that VA establish a conversion factor that would not lessen physician payments. One of the commenters stated that the Medicare conversion factors should not be used because they are "constrained by budget-neutrality and other considerations, such as the Medicare Volume Performance Standard system, that are not applicable to VA."
- One commenter who practices psychiatry in a semi-rural area asserted that his expenses are high and that if VA adopted Medicare's Participating Physicians Fee Schedule some procedures would be billed at rates "at or below" his overhead expense.
- Three commenters questioned whether the availability and quality of care would be lessened by the adoption of Medicare's Participating Physicians Fee Schedule.
- One commenter asserted that before VA adopt payment methodology based on Medicare principles, VA should sponsor an independent study and consult with physician groups.
- Two commenters opposed the adoption of the Medicare fee schedule for anesthesia services.

Response to Comments

As stated in the proposed rule, one of the basic reasons for conducting this rulemaking proceeding was to achieve cost reductions. We believe, particularly in this budget-sensitive era, that it is sound policy to seek to achieve this objective. Also, we note that the Medicare formula does not merely relate to individuals eligible for Medicare. It is based on principles applicable to all individuals, including veterans. Moreover, even though we could establish different conversion factors and even though VA is not "constrained by budget-neutrality and other considerations, such as the Medicare Volume Performance Standard system," we believe that we should not have to pay more than the Department of Health and Human Services pays for physician services.

Further, regardless of whether some physicians' "overhead payments" might be out of proportion to the amount of payment received from VA, we do not believe that this final rule would cause this to be a common occurrence. In addition, we do not expect that the adoption of this final rule would lessen significantly the availability and quality of physician care for veterans, and we believe that even without additional studies, the rationale in the proposed rule and this document provide an adequate basis for this final rule.

The proposed rule was intended to provide for reimbursement based on the lesser of the actual billed charge or the amount calculated under Medicare's Participating Physician Fee Schedule. The formula for Medicare's Participating Physician Fee Schedule has been changed (see 62 FR 59048, 59261). For services other than anesthesia, the Medicare formula was changed to have one conversion factor instead of three (previously, the Medicare formula contained a separate conversion factor for surgical services, nonsurgical services, and primary care services). Accordingly, the final rule also makes this adjustment in the Medicare formula.

Anesthesia Services

The Medicare formula includes separate provisions for anesthesia services. These separate anesthesia provisions were not included in the proposed rule. We intend to publish a new proposal concerning this issue in

the near future. Accordingly, this final rule does not make changes regarding anesthesia services. They remain subject to the payment provisions for those cases not covered by the Medicare formula (i.e., lesser of the actual amount billed or the amount calculated using the 75th percentile methodology; or the usual and customary rate if there are fewer than 8 treatment occurrences for a procedure during the previous fiscal year).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601 through 612. The rule would not cause a significant economic impact on health care providers, suppliers, or entities since only a small portion of the business of such entities concerns VA beneficiaries. Therefore, pursuant to 5 U.S.C. 605(b), the rule is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance Numbers are 64.009, 64.010 and 64.011.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing home care, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: May 8, 1998.

Togo D. West, Jr.,

Acting Secretary.

For the reasons set forth in the preamble, 38 CFR part 17 is amended as follows:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.55 [Amended]

2. In § 17.55, in the introductory text remove "38 U.S.C. 1703 or 38 CFR 17.52" and add, in its place "38 U.S.C. 1703 and 38 CFR 17.52 of this part or under 38 U.S.C. 1728 and 38 CFR 17.120"; paragraph (h) is removed; and paragraphs (i), (j) and (k) are redesigned as paragraphs (h), (i) and (j), respectively.

3. Section 17.56 is redesignated as § 17.57 and a new § 17.56 is added to read as follows:

§ 17.56 Payment for non-VA physician services associated with outpatient and inpatient care provided at non-VA facilities.

(a) Except for anesthesia services, payment for non-VA physician services associated with outpatient and inpatient care provided at non-VA facilities authorized under § 17.52, or made under § 17.120 of this part, shall be the lesser of the amount billed or the amount calculated using the formula developed by the Department of Health & Human Services, Health Care Financing Administration (HCFA) under Medicare's participating physician fee schedule for the period in which the service is provided (see 42 CFR Parts 414 and 415). This payment methodology is set forth in paragraph (b) of this section. If no amount has been calculated under Medicare's participating physician fee schedule or if the services constitute anesthesia services, payment for such non-VA physician services associated with outpatient and inpatient care provided at non-VA facilities authorized under § 17.52, or made under § 17.120 of this part, shall be the lesser of the actual amount billed or the amount calculated using the 75th percentile methodology set forth in paragraph (c) of this section; or the usual and customary rate if there are fewer than 8 treatment occurrences for a procedure during the previous fiscal year.

(b) The payment amount for each service paid under Medicare's participating physician fee schedule is the product of three factors: a nationally uniform relative value for the service; a geographic adjustment factor for each physician fee schedule area; and a nationally uniform conversion factor for the service. The conversion factor converts the relative values into payment amounts. For each physician fee schedule service, there are three relative values: An RVU for physician work; an RVU for practice expense; and an RVU for malpractice expense. For each of these components of the fee schedule, there is a geographic practice cost index (GPCI) for each fee schedule area. The GPCIs reflect the relative costs of practice expenses, malpractice insurance, and physician work in an area compared to the national average. The GPCIs reflect the full variation from the national average in the costs of practice expenses and malpractice insurance, but only one-quarter of the difference in area costs for physician work. The general formula calculating the Medicare fee schedule amount for a given service in a given fee schedule area can be expressed as: Payment = [(RVUwork × GPCIwork) + (RVUpractice expense × GPCIpractice expense) + (RVUmalpractice × GPCImalpractice)] × CF.

(c) Payment under the 75th percentile methodology is determined for each VA medical facility by ranking all occurrences (with a minimum of eight) under the corresponding code during the previous fiscal year with charges ranked from the highest rate billed to the lowest rate billed and the charge falling at the 75th percentile as the maximum amount to be paid.

(d) Payments made in accordance with this section shall constitute payment in full. Accordingly, the provider or agent for the provider may not impose any additional charge for any services for which payment is made by VA.

4. Section 17.128 is revised to read as follows:

§ 17.128 Allowable rates and fees.

When it has been determined that a veteran has received public or private hospital care or outpatient medical services, the expenses of which may be paid under § 17.120 of this part, the payment of such expenses shall be paid in accordance with §§ 17.55 and 17.56 of this part.

(Authority: Section 233, Pub. L. 99–576)

[FR Doc. 98–19682 Filed 7–22–98; 8:45 am]

BILLING CODE 8320–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI76–02–7305; FRL–6128–4]

Approval and Promulgation of State Implementation Plan; Wisconsin; Site-Specific SIP Revision for Amron Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rulemaking finalizes the Environmental Protection Agency's (EPA's) disapproval of a site-specific State Implementation Plan (SIP) revision for the Amron Corporation facility located at 525 Progress Avenue

in Waukesha. The SIP revision was submitted by the Wisconsin Department of Natural Resources (WDNR) on February 21, 1997, and would exempt the facility from the volatile organic compound (VOC) emission limits applicable to miscellaneous metal coating operations. The EPA proposed to disapprove this request on April 28, 1998. No negative comments were submitted during the comment period.

DATES: This disapproval is effective August 24, 1998.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886–1767 before visiting the Region 5 Office.)

FOR FURTHER INFORMATION CONTACT: Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886–1767.

SUPPLEMENTARY INFORMATION:

I. Background

On April 28, 1998, EPA proposed to disapprove the site-specific SIP revision for Amron Corporation (63 FR 23239). This proposed disapproval was based on numerous factors which are discussed in detail in the proposed disapproval. EPA received no negative comments during the public comment period. Therefore, EPA is finalizing the disapproval proposed on April 28, 1998.

II. Miscellaneous

A. Applicability to Future SIP Decisions

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

B. Executive Orders 12866 and 13045

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

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

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because this disapproval only affects one source, Amron Corporation. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities. Furthermore, as explained in this document, the request does not meet the requirements of the Clean Air Act and EPA cannot approve the request. EPA has no option but to disapprove the submittal.

EPA's disapproval of the State request under section 110 and subchapter I, part D of the Clean Air Act does not affect any existing requirements applicable to small entities. Any pre-existing Federal requirements remain in place after this disapproval. Federal disapproval of the State submittal does not affect State-enforceability. Moreover, EPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates

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

EPA has determined that this disapproval does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal disapproval action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result.

E. Small Business Regulatory Enforcement Fairness Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804, however, exempts from section 891 the following types of rules: rules of particular applicability; rules relating to agency management or personnel; and rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Authority: 42 U.S.C. 7401–7671q

Dated: July 9, 1998.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 98–19656 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6112–7]

National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This action corrects and clarifies regulatory text of the "National Emission Standard for Hazardous Air Pollutants for Industrial Process Cooling Towers," which was issued as a final rule on September 8, 1994. The rule is being revised to clarify that the owner or operator of a source that ceases use of chromium-based chemicals may demonstrate compliance with the standard through recordkeeping.

Because the rule merely clarifies the intent and coverage of the September 8, 1994 final rule, it has no impact on the environment beyond that of the original rule.

DATES: *Effective Date.* The direct final rule will be effective October 21, 1998 if no timely adverse comments are received by September 21, 1998.

If a hearing is requested, the comment period will end October 6, 1998. Should the EPA receive such comments, it will publish a timely withdrawal of the Direct Final rule in the **Federal Register** and inform the public that the rule will not take effect.

Public Hearing. Anyone requesting a public hearing must contact EPA no later than August 3, 1998. If a hearing is held, it will take place on August 7, 1998.

ADDRESSES: Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket (6102), Attention Docket Number A–91–65, Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW Washington, DC 20460.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. Phil Mulrine, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5289.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Metals Group, Emission Standards Division, (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–5289.

SUPPLEMENTARY INFORMATION:

I. Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities
Industry	Industrial Process Cooling Towers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the revisions to the regulation contained in this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. To determine whether your facility is affected by these revisions, you should carefully examine the language of section 63.404 of the title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Comments

If significant adverse comments are timely received on the direct final rule, all such comments will be addressed in a subsequent final rule based on the proposed rule contained in the Proposed Rules Section of this **Federal Register** that is identical to this direct final rule. The direct final rule will be withdrawn.

This rule will become effective without further notice unless the Agency receives relevant adverse comment within 60 days of the publication of this document. Should the Agency receive such comments, it will publish a timely withdrawal and inform the public that this rule will not take effect.

On September 8, 1994 (59 FR 46339), the Environmental Protection Agency (EPA) promulgated in the **Federal Register** national emission standards for hazardous air pollutants for industrial process cooling towers. These standards were promulgated as subpart Q in 40 CFR part 63.

Subpart Q limits the discharge of chromium from industrial process cooling towers (IPCTs) located at major sources by prohibiting the use of chromium-based water treatment chemicals in those IPCTs. As authorized by section 112(h) of the Clean Air Act (the Act) this standard is a work practice standard. The standard specifies that owners and operators may not use chromium-based water treatment chemicals in IPCTs and that on or after 3 months after the compliance date a cooling water sample residual hexavalent chromium concentration in excess of 0.5 ppm shall indicate a violation of the standard. This document contains amendments to clarify the applicability of the final standard.

III. Description of the Changes

Section 63.404 is being revised to clarify that compliance with the standard can be demonstrated either by cooling water sampling analysis or by recordkeeping which shows that the owner or operator has switched to a non-chromium water treatment method. At the time the final standard was promulgated in September of 1994, EPA believed that once an owner or operator ceased adding chromium-based chemicals to the IPCT water the residual chromium would fall below 0.5 ppm in all cases in less than 3 months. As a result, § 63.404(b) was drafted to allow 3 months for sources to reach a residual chromium reading of less than 0.5 ppm. On or after 3 months after the compliance date the Administrator (or delegated authority) could require cooling water to be analyzed to determine whether the residual hexavalent chromium concentration exceeds 0.5 ppm by weight. A reading in excess of 0.5 ppm would indicate a violation of the standard.

Since promulgation of the final rule EPA has learned that there are some IPCTs for which residual chromium remains higher than 0.5 ppm beyond 3 months after chromium-based chemicals cease to be added to the IPCT water. EPA has therefore concluded that sampling of cooling water to measure residual chromium may not always be an accurate measure of whether an owner or operator has ceased using chromium-based chemicals. Today's revisions to the September 1994 final rule provide that an owner or operator may demonstrate through recordkeeping that the chemicals used in the IPCT are not chromium-based. This revision does not change the underlying standard contained in 40 CFR 63.402 which provides that "no owner or operator of an IPCT shall use chromium-based water treatment chemicals in any affected IPCT."

In addition, § 63.404(b) is revised to clarify that a cooling water sample showing residual hexavalent chromium of 0.5 parts per million by weight or less shall be considered compliance with the standard. This change does not alter the standard but rather rephrases it for clarity.

IV. Administrative

A. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1876.01) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460, by e-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information collected will be used as an alternative means of

compliance under § 63.404. Owners of IPCT's are required to maintain a cooling water concentration of residual hexavalent chromium equal to or less than 0.5 parts per million. The owners of IPCT's can choose to demonstrate compliance by maintaining records of chemical treatment purchases instead of measuring the cooling water hexavalent chromium concentration.

The recordkeeping burden is estimated to be 6 hours annually. The rule has no reporting requirements so there is no burden associated with reporting. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Comments are requested by September 21, 1998. Include the ICR number in any correspondence.

B. Executive Order 12866

Under Executive Order 12866, the EPA must determine whether a regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Industrial Process Cooling Towers rule was promulgated on September 8, 1994. The amendments issued today do not add any additional control requirements to the rule, but rather would clarify the rule and add an alternative means of compliance. It has been determined that these amendments are not a "significant regulatory action" under terms of Executive Order 12866 and, therefore, are not subject to review by the Office of Management and Budget.

C. Regulatory Flexibility

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. EPA has also determined that this rule will not have a significant economic impact on a substantial number of small entities because it imposes no additional requirements, and adds compliance flexibility.

D. Unfunded Mandates Act

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

The EPA has determined that the action promulgated today does not include a Federal mandate that will result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

E. Submission to Congress and the General Accounting Office

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

F. Protection of Children From Environmental Health Risks and Safety Risks Under Executive Order 13045

The Executive Order 13045 applies to any rule that (1) OMB determines is "economically significant" as defined under Executive Order 12866, and (2) EPA determines the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety aspects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The direct final rule is not subject to Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Industrial process cooling towers, Reporting and recordkeeping requirements.

Dated: June 12, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 63,

subpart Q of the Code of Federal Regulations is amended as follows:

PART 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart Q—National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

2. Section 63.404 is amended by revising the introductory language and paragraph (b), and by adding new paragraphs (c) and (d) to read as follows:

§ 63.404 Compliance demonstrations.

No routine monitoring, sampling, or analysis is required. In accordance with section 114 of the Act, the Administrator or delegated authority can require cooling water sample analysis of an IPCT if there is information to indicate that the IPCT is not in compliance with the requirements of § 63.402 of this subpart. The owner or operator of an IPCT may demonstrate compliance through recordkeeping in accordance with paragraph (c) of this section in lieu of a water sample analysis. If cooling water sample analysis is required:

(a) * * *

(b) On or after 3 months after the compliance date, a cooling water sample residual hexavalent chromium concentration equal to or less than 0.5 parts per million by weight shall indicate compliance with § 63.402. Alternatively, an owner or operator may demonstrate compliance through record keeping in accordance with paragraph (c).

(c) To demonstrate compliance with § 63.402, in lieu of the water sample analysis provided for in paragraph (a) of this section, the owner or operator of each IPCT may maintain records of water treatment chemical purchases, including invoices and other documentation that includes invoices and other documentation that includes date(s) of purchase or shipment, trade name or other information to identify composition of the product, and quantity of the product.

(d) Following a request, by the Administrator or delegated authority, under paragraph (a) for a water sample analysis, failure to either meet the concentration level specified in paragraph (b) or provide the records specified in paragraph (c) shall indicate a violation of § 63.402.

[FR Doc. 98–19407 Filed 7–22–98; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300422A; FRL–5799–7]

RIN 2070–AB78

Capsaicin; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of Capsaicin in or on all food commodities, when applied in accordance with approved product labeling and good agricultural practice. This exemption from requirement of a tolerance is being established by the Agency on its own initiative, under the Federal Food, Drug, and Cosmetic Act (FFDCA) as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This regulation becomes effective July 23, 1998. Written objections and requests for hearings must be received by September 21, 1998.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300422A], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300422A], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of electronic objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket number [OPP–300422A]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Richard W. King, Biopesticides and Pollution Prevention Division (7511W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location, telephone number, and e-mail address: 9th Floor (902W38), CM #2, 1921 Jefferson Davis Hwy., Arlington, VA; (703) 308–8052, e-mail: king.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 1, 1996 (61 FR 19233) [OPP–300422; FRL–5362–9], EPA proposed, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(d) to amend 40 CFR part 180 by establishing an exemption from the requirement of a tolerance for Capsaicin in or on all food commodities, when applied in accordance with approved product labeling and with good agricultural practice. There were no comments received in response to the proposed rule. Since the date of this proposal, FFDCA section 408 has been significantly amended by the Food Quality Protection Act of 1996 (FQPA). The FQPA amended the safety standard that applies to both tolerances and exemptions from the requirement for tolerance. Nonetheless, the legislative history indicates that the same rigorous safety standard EPA had always imposed as to tolerance exemptions should be the Agency's guide in implementing the new provision. On this specific point, the House Commerce Committee Report states:

> The Committee understands that EPA currently issues exemptions only for the pesticide chemical residues that do not pose a dietary risk under reasonably foreseeable circumstances. The Committee intends that EPA retain its current practice. H.Rep. 104-669 part 2, 104th Cong., 2d Sess. 45 (1996).

Capsaicin clearly meets this standard. Capsaicin and related capsaicinoids are the ingredients that produce the "hotness" in certain species of peppers in the Genus *Capsicum*. As noted in the proposal, there are no known toxicological concerns from the ingestion of capsaicin and related capsaicinoids. Residues of capsaicin on food will not pose a dietary risk. Thus, EPA concludes that, consistent with the amended section 408, exempting

capsaicin from the requirement is safe in that there is a reasonable certainty that no harm will result from aggregate exposure to capsaicin. This finding applies not only to the general population but also to infants and children as well. Further, EPA has determined that a safety factor analysis is not needed in making its conclusion regarding the safety of capsaicin due to the lack of toxicity of capsaicin. For this reason, EPA concludes that this exemption is safe for infants and children without use of the additional safety factor described in section 408(b)(2)(C). Accordingly, EPA establishes an exemption from tolerance for capsaicin as provided below.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to "object" to a tolerance regulation issued by EPA under new section 408(e) and (l)(6) as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by September 21, 1998, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this rulemaking under docket control number [OPP–300422A] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments may be sent directly to EPA at:

opp-docket@epamail.epa.gov.

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the address in "ADDRESSES" at the beginning of this document.

III. Regulatory Assessment Requirements

This action finalizes an exemption from the tolerance requirement under FFDCA section 408(e). The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). In addition, this final rule does not contain any information collections subject to OMB approval under the *Paperwork Reduction Act* (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the *Unfunded Mandates Reform Act of 1995* (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require special OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

IV. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 180

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

and pests, Reporting and recordkeeping requirements.

Dated: July 10, 1998.

Anne E. Lindsay,

Acting Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

Authority: 21 U.S.C. 346a and 371

2. Section 180.1165 is added to read as follows:

§ 180.1165 Capsaicin; exemption from the requirement of a tolerance.

Capsaicin is exempt from the requirement of a tolerance in or on all food commodities when used in accordance with approved label rates and good agricultural practice.

[FR Doc. 98–19652 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 971208297–8054–02; I.D. 071798A]

Fisheries of the Exclusive Economic Zone Off Alaska; "Other Rockfish" in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of "other rockfish" in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of "other rockfish" in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the "other rockfish" 1998 total allowable catch (TAC) in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 19, 1998, until 2400 hrs, A.l.t., December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

In accordance with § 679.20(c)(3)(ii), the Final 1998 Harvest Specifications of Groundfish for the GOA (63 FR 12027, March 12, 1998) established the amount of the 1998 "other rockfish" TAC in the Central Regulatory Area of the GOA as 650 metric tons (mt).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the amount of the "other rockfish" TAC in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of "other rockfish" in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the amount of the "other rockfish" TAC in the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet has taken the amount of the "other rockfish" TAC in the Central Regulatory Area. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 17, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19547 Filed 7–17–98; 4:20 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 141
Thursday, July 23, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

RIN 3150–AF98

Reporting Requirements for Nuclear Power Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Nuclear Regulatory Commission is considering amending the event reporting requirements for nuclear power reactors: to update the current rules, including reducing or eliminating the reporting burden associated with events of little or no safety significance; and to better align the rules with the NRC's current needs, including revising reporting requirements based on importance to risk and extending the required reporting times consistent with the need for prompt NRC action. This advance notice of proposed rulemaking invites public comment on issues related to such an amendment.

The Commission is also interested in evaluating other current regulations to identify areas where reporting requirements can be simplified and/or modified to a less burdensome, more risk-informed approach, and this advance notice of proposed rulemaking invites public comment on identification of other reporting requirements that are potential candidates for such modification.

DATE: Submit comments by September 21, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Mail comments to: The Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20055–0001, Attention: Rulemaking and Adjudication Staff.

Deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays.

Electronic comments may be provided via the NRC's interactive rulemaking web site through the NRC home page (http://www.nrc.gov). From the home page, select "Rulemaking" from the tool bar at the bottom of the page. The interactive rulemaking website can then be accessed by selecting "Rulemaking Forum." This site provides the ability to upload comments as files (any format), if your web browser supports that function. For information about the interactive rulemaking web site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Dennis P. Allison, Office for Analysis and Evaluation of Operational Data, Washington DC 20555–0001, telephone (301) 415–6835, e-mail dpa@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 50.72 has been in effect, with minor modifications, since 1983. Its essential purpose is "* * * to provide the Commission with immediate reporting of twelve types of significant events where immediate Commission action to protect the public health and safety may be required or where the Commission needs timely and accurate information to respond to heightened public concern." (48 FR 39039; August 29, 1983). Events defined in § 50.72 are currently required to be reported, by telephone, in the following time frames:

(1) Declaration of an emergency class is reported immediately after notification of appropriate State or local agencies and not later than 1-hour after declaration.

(2) Non-emergency, 1-hour events are reported as soon as practical and in all cases within 1 hour of occurrence.

(3) Non-emergency, 4-hour events are reported as soon as practical and in all cases within 4 hours of occurrence.

(4) Followup notification is made immediately during the course of the event for: further degradation in the level of plant safety, other worsening plant conditions, declaration of an emergency class, changes in an emergency class, termination of an emergency class, results of ensuing evaluations of plant conditions, effectiveness of response or protective measures taken, or information related to plant behavior that is not understood.

Section 50.73 has also been in effect, with minor modification, since 1983. Its essential purpose is to identify "* * * the types of reactor events and problems that are believed to be significant and useful to the NRC in its effort to identify and resolve threats to public safety. It is designed to provide the information necessary for engineering studies of operational anomalies and trends and patterns analysis of operational occurrences. The same information can be used for other analytic procedures that will aid in identifying accident precursors." (48 FR 33851; July 26, 1983). Events defined in § 50.73 are reported, in writing, within 30 days of discovery. Most of these events are initially reported under § 50.72. However, for two categories of events the initial report is the 30-day LER. These categories are: (1) Operation or condition prohibited by the plant's TS and (2) failure of independent components due to a common cause.

Experience has shown a need for change in several areas. Specific proposals under consideration are discussed below.

State Input

Many States (Agreement States and Non-Agreement States) have agreements with power reactors to inform the States of plant issues. State reporting requirements are frequently triggered by NRC reporting requirements. Accordingly, the NRC seeks State input on issues related to amending power reactor reporting requirements. Appropriate State agencies will be requested by letter to provide comments on this advance notice of proposed rulemaking.

Specific NRC Proposals for Amending 10 CFR 50.72 and 50.73

Objectives: The objectives of contemplated amendments would include the following.

(1) To better align the reporting requirements with the NRC's current reporting needs. Examples would

include: (a) extending the required reporting times, consistent with the need for timely NRC action and (b) revising the reporting requirements based on importance to risk, such as by adding reports related to actuation of systems that are risk-significant and dropping reports related to actuation of systems that are not risk-significant.

(2) To reduce the reporting burden, consistent with the NRC's reporting needs. Examples include: (a) reducing or eliminating the reporting burden associated with events of little or no safety significance, provided reporting is not otherwise needed to support NRC regulatory programs, and (b) simplifying the reporting effort, such as by redesigning the LER form to employ a "check the box" approach to the extent feasible.

(3) To clarify the reporting requirements where needed. The principal example would be clarifying which events involving design or analysis defects or deviations must be reported.

Issues and contemplated amendments: The issues under consideration and the contemplated amendments include the following.

(1) Required initial reporting times. In the contemplated amendments, the required initial reporting times would be as follows.

(a) Emergencies: Declaration of an emergency class would continue to be reported immediately after notification of appropriate State or local agencies and not later than 1-hour after declaration. Emergency actions taken pursuant to 10 CFR 50.54(x) would continue to be reported as soon as practical and in all cases within 1 hour of occurrence.

(b) Follow up notifications: Follow up notifications during the course of an event would continue to be made immediately.

(c) Loss of capability to perform safety function: An event or condition that could prevent fulfillment of the safety function of a structure or system [as described in 10 CFR 50.72(b)(2)(iii) and 50.73(a)(2)(v)] would be reported promptly (e.g., within 8 hours) if the plant is in a mode where the affected structure or system is required to be operable. Otherwise, the initial report would be required in writing within 30 days. It should be noted that *an event or condition that could prevent fulfillment of a safety function includes design and analysis defects and deviations.* For example, if there is a defect in an analysis *and* as a result of that defect a system is not capable of performing its specified safety functions, that is a reportable event or condition under this criterion. In addition, reportable events or conditions can result from factors such as: personnel errors; procedure violations; procedural errors; equipment failures; inadequate maintenance; or deficiencies in fabrication, construction or equipment qualification.

(d) Partial loss of capability to perform a safety function: An operation or condition prohibited by the plant's TS [as described in 10 CFR 50.73(a)(2)(i)(B)] would continue to be reported in writing within 30 days. It should be noted that an operation or condition prohibited by the plant's TS results from *any operation or condition, including a design or analysis defect or deviation, that results in one train of a multiple-train safety system being incapable of performing its specified safety function for a period of time longer than allowed by the TS.*

(e) No loss of capability to perform a safety function: *Conditions, including design or analysis defects or deviations, that do not result in a structure, system, or train being incapable of performing its specified safety function* would no longer be reportable under 10 CFR 50.72 and 50.73, unless they meet one of the other reporting criteria discussed below. However, other regulatory requirements such as 10 CFR 50.59, 10 CFR 50.71(e), or Appendix B to 10 CFR 50 may be applicable.

(f) Other non-emergency events: Other non-emergency events that are currently reported in 1 hour would be reported in 8 hours, except for a condition outside the coverage of procedures, which would be deleted as discussed further in Item (7) below. Thus, the remaining events in this category, which would be reported in 8 hours, are summarized as follows:

(i) Initiation of shutdown (S/D) required by (TS);

(ii) Serious degradation of plant including its principal safety barriers;

(iii) Plant in unanalyzed condition, significantly compromising plant safety;

(iv) External condition that poses an actual threat or significantly hampers site personnel in the performance of duties necessary for safe operation of the plant;

(v) Valid Emergency Core Cooling System (ECCS) initiation signal that results (or should have resulted) in discharge to the reactor coolant system;

(vi) Internal event that poses an actual threat or significantly hampers site personnel in the performance of duties necessary for safe operation of the plant; and,

(vii) Major loss of capability for emergency assessment, offsite response, or communication.

Unplanned actuation of the reactor protection system (RPS), which is currently reported in 4 hours, would be reported in 8 hours when the reactor is critical. Otherwise, it would be reported in writing within 30 days. Unplanned actuation of an engineered safety feature (ESF) other than the RPS, which is currently reported in 4 hours, would be reported in 8 hours if it resulted from (a) intentional manual actuation or (b) a valid signal (i.e., a signal in response to actual plant conditions that warrant ESF actuation). Otherwise, it would be reported in writing within 30 days.

Other non-emergency events that are currently reported in 4 hours would be reported in 8 hours. These are summarized as follows:

(i) Airborne radioactive release that results in concentrations over 20 times allowable levels in an unrestricted area;

(ii) Liquid effluent in excess of 20 times allowable concentrations released to an unrestricted area;

(iii) Radioactively contaminated person transported to an offsite medical facility for treatment;

(iv) News release or other government agency notification related to the health and safety of the public or onsite personnel, or protection of the environment;

(v) Defect in a spent fuel storage cask structure, system, or component which is important to safety or significant reduction in the effectiveness of a spent fuel storage cask confinement system.

Failure of independent components due to a common cause would continue to be reportable in writing within 30 days.

(2) Clarification of requirement for reporting an event or condition that could prevent fulfillment of the safety function of a structure or system. The current rules require reporting "Any event or condition that *alone* could have prevented the fulfillment of the safety function of structures or systems that are needed to:

(A) Shut down the reactor and maintain it in a safe shutdown condition;

(B) Remove residual heat;

(C) Control the release of radioactive material; or

(D) Mitigate the consequences of an accident." [Emphasis added.]

In the contemplated amendments, in order to eliminate any potential for misunderstanding the requirement, the wording would be revised to require reporting any event or condition that *alone or in combination with other existing condition(s)* could have prevented the fulfillment of the safety function of structures or systems that are needed to * * *

(3) Reporting of design issues: In the contemplated amendments there would be no specific criterion to require reporting conditions outside the design basis of the plant. However, depending on whether they result in loss or partial loss of capability to perform a safety function, design or analysis defects or deviations would be reported as discussed in Items (1)(c) and (1)(d) above.

There has been some confusion and controversy about the meaning of the current requirement to report conditions outside the design basis of the plant. For instance, in one case the Final Safety Analysis Report (FSAR) characterized a building design basis as follows: pressure relief panels will relieve at about 45 psf in order to ensure that building pressure does not exceed its design pressure of 80 psf. When it was found that the panels would not relieve at 45 psf but would still relieve well below 80 psf, controversy ensued between the NRC staff and the licensee regarding whether a report was required.

Under the contemplated amendments, the pressure relief panel example, discussed above, would not be reportable because the structure (building that houses the potentially affected safety systems) remains within its design capabilities so that the systems within the building would still be capable of performing their specified safety functions. The event would be reportable if the pressure relief panels would not prevent the building from exceeding its design capabilities such that the systems housed within the building would not be considered capable of performing their specified safety functions because of potential building collapse.

(4) Reporting of errors in and corrections to ECCS analyses: Reporting of errors in and corrections to ECCS analyses would continue to be governed by 10 CFR 50.46(a)(3)(ii) when it applies, as is currently the case. As required by that section, failure to meet the ECCS acceptance criteria (i.e., peak clad temperature [PCT] greater than 2200 °F, excessive cladding oxidation, etc.) would be reported pursuant to 10 CFR 50.72 (e.g., within 8 hours) and 50.73. Errors where PCT increases by more than 50 °F but remains below 2200 °F would be reported in writing in 30 days. Lesser errors would be compiled and reported annually.

(5) Reporting of information with a significant implication for public health and safety or common defense and security: In connection with the contemplated amendments, no changes would be made with regard to the requirement in 10 CFR 50.9(b) to report "* * * information identified by the applicant or licensee as having for the regulated activity a significant implication for public health and safety or common defense and security."

(6) Reporting of missed or late equipment surveillance tests. Section 50.73 requires reporting a condition or operation prohibited by the plant's TS. In some cases, this leads to reporting events that consist of late surveillance tests where the oversight is corrected and the equipment is tested. These events have proven to be of little or no risk-significance when the equipment is found to be functional or, alternately, the requirements of the TS are implemented (i.e., any applicable action statements are carried out) and no systematic breakdown of compliance with the TS is involved.

In the contemplated amendments, the reporting requirement would be eliminated for events that consist of late TS required surveillance tests where there is no systematic breakdown of compliance with the TS, the oversight is corrected, the testing is performed, and the equipment is still functional or, alternately, the requirements of the TS are implemented.

(7) Reporting of a condition outside the coverage of procedures. The current requirement is to report when the plant is in "a condition not covered by the plant's operating and emergency procedures." Experience indicates that this criterion does not result in needed reports. In addition, this criterion is redundant since the other reporting criteria capture events of safety significance.

In the contemplated amendments, the requirement to report a condition outside the coverage of procedures would be deleted.

(8) Reporting of events that result in actuation of an ESF. The current requirement is to report "Any event or condition that results in a manual or automatic actuation of any Engineered Safety Feature (ESF), including the Reactor Protection System (RPS) except when * * *." This leads to confusion and variability in reporting because there are varying definitions of what constitutes an ESF. It also leads to reporting for systems of lesser risk-significance, such as reactor water clean up system (RWCU) isolation.

In the contemplated amendments, instead of using the term ESF, the rules would specify the systems for which reporting is required. Systems with lesser risk-significance would be dropped and systems with greater risk-significance would be added. The result would be similar to the discussion in the NRC staff's reporting guidelines. (See NUREG–1022, Revision 1, "Event Reporting Guidelines, 10 CFR 50.72 and 50.73," January 1998, Page 60.) These changes would result in the following list:

(a) Reactor Protection System (reactor scram, reactor trip).

(b) Engineered Safety Features Actuation System (general actuation signals affecting numerous components such as: safety injection actuation signal, containment isolation signal, or recirculation actuation signal).

(c) Emergency Core Cooling Systems (ECCS) for Pressurized Water Reactors (PWRs) including: high-, intermediate-, and low-head injection systems and the low pressure injection function of residual (decay) heat removal systems.

(d) ECCS for Boiling Water Reactors (BWRs) including: high-and low-pressure core spray systems; high-pressure coolant injection system, feedwater coolant injection system, the low pressure injection function of the residual heat removal system; and automatic depressurization system.

(e) BWR Isolation Condenser System and Reactor Core Isolation Cooling System.

(f) Containment Systems including: containment and reactor vessel isolation systems (general containment isolation signals affecting numerous valves, main steam isolation valve [MSIV] closure signals in BWRs); and containment heat removal and depressurization systems, including the containment spray and the fan cooler system.

(g) Electrical Systems including: emergency ac electrical power systems, including emergency diesel generators (EDGs) and their associated support systems; the hydroelectric facilities used in lieu of EDGs at the Oconee Station; safety related gas turbine generators; BWR dedicated Division 3 EDGs and their associated support systems; and station blackout diesel generators (and black-start gas turbines that serve a similar purpose and are started from the control room and included in the plant's and emergency procedures).

(h) Anticipated Transient Without Scram (ATWS) Mitigating Systems.

(i) PWR Auxiliary Feedwater Systems.

(j) Service Water (actuation of standby, emergency service water systems only).

(k) Reactor Building and Containment Annulus Filter Systems.

(9) Shutdown events. The current rule requires providing the "Status of structures, components, or systems that were inoperable at the start of the event and that contributed to the event" and "An assessment of the safety consequences and implications of the

event. This assessment must include the availability of other systems or components that could have performed the same function as the components and systems that failed during the event." In some cases, this does not provide enough information to estimate the risk associated with important shutdown events.

In the contemplated amendments, these requirements would be clarified to better indicate information required on the status of systems that are included in the operating or emergency procedures that could have been used in recovering from the event to support risk assessment of the event.

(10) Human performance. The current rule requires reporting the following information regarding human performance as a part of the narrative description of the event contained in the written 30 day report:

"(1) Operator actions that affected the course of the event, including operator errors, procedural deficiencies, or both, that contributed to the event.

(2) For each personnel error, the licensee shall discuss:

(i) Whether the error was a cognitive error (e.g., failure to recognize the actual plant condition, failure to realize which systems should be functioning, failure to recognize the true nature of the event) or a procedural error;

(ii) Whether the error was contrary to an approved procedure, was a direct result of an error in an approved procedure, or was associated with an activity or task that was not covered by an approved procedure;

(iii) Any unusual characteristics of the work location (e.g., heat, noise) that directly contributed to the error; and

(iv) The type of personnel involved (i.e., contractor personnel, utility-licensed operator, utility non-licensed operator, other utility personnel)."

Human performance information is needed to support analysis of human error probabilities used in risk assessments. This helps in making risk-informed decisions regarding human performance issues in areas such as inspection program development, evaluation of licensing actions, preparation of generic communications and resolution of generic issues. Consistent with the advanced incident reporting system of the Organization for Economic Cooperation and Development (OECD) Nuclear Energy Agency (NEA) Committee on the Safety of Nuclear Installations (CSNI) and the International Atomic Energy Agency (IAEA), the contemplated amendments would require information on how the human performance factors listed below affected the event to the extent they apply. (See NEA/CSNI/R(97)15, PART I, "Improving Reporting and Coding of Human and Organizational Factors in Event Reports," April 1998, Page 15 and Page 16.)

(a) Personnel errors and human performance related issues in the areas of procedures, training, communication, human engineering, management, and supervision.

(b) In the area of procedures, errors due to missing procedures, procedures which are inadequate due to technical or human factors deficiencies, or which have not been maintained current.

(c) Training errors due to a failure to provide training, having provided inadequate training, or training (such as simulator training or on-the-job training) that does not provide an environment comparable to that in the plant.

(d) Communications errors due to inadequate, untimely, misunderstood, or missing communication or due to the quality of the communication equipment.

(e) Human engineering issues related to the interface or lack thereof between the human and the machine (such as size, shape, location, function or content of displays, controls, equipment or labels) as well as environmental issues such as lighting, temperature, noise, radiation and work area layout.

(f) Management errors due to management expectations, corrective actions, root cause determinations, or audits which are inadequate, untimely or missing.

(g) In the area of supervision, errors due a lack of supervision, inadequate supervision, job staffing, overtime, scheduling and planning, work practices (such as briefings, logs, work packages, team work, decision making, and housekeeping) or because of inadequate verification, awareness or self-checking.

(h) The department for which key personnel work and the type of work or activity being performed.

This information is already being captured in the narrative section of most LERs submitted under the current rule, as discussed in the NRC staff's reporting guidelines. (See NUREG–1022, Revision 1, "Event Reporting Guidelines, 10 CFR 50.72 and 50.73," January 1998, Page 110.) The amended rule would explicitly recognize the information discussed in the guidelines.

In the amended rule, such human performance information would be provided using a "check the box" approach added to the LER form, to minimize the reporting burden.

(11) LER form. The current LER form relies heavily on a narrative to provide information such as the human performance information discussed above, equipment that was not available, and equipment that was actuated. It appears that the reporting effort could be reduced by adopting a "check the box" approach to the extent practical. A narrative would still be required to convey an understanding of the event. However, data regarding human and equipment performance, for example, would be included in the narrative only if they are pertinent to understanding the event.

In conjunction with the contemplated amendments, the LER form would be redesigned to reduce the reporting effort. To the extent practical, this approach would be compatible with equipment failure reporting in the industry's Equipment Performance and Information Exchange (EPIX) program.

(12) Electronic reporting. The NRC staff is currently planning to implement an electronic reporting program, known as the Agency-wide Document Access and Management System (ADAMS), that will in general provide for electronic submittal of many types of reports, including LERs. Accordingly, no separate rulemaking effort to provide for electronic submittal of LERs is contemplated.

(13) Enforcement. Since the criteria for reporting arising from this rulemaking would focus on matters of safety significance and be more risk informed, the reporting criteria may be a relevant consideration in determining the severity level of a violation under the Enforcement Policy. The staff intends to consider the reporting criteria in its ongoing review of the severity levels in the NRC Enforcement Policy.

Contemplated Schedule: The contemplated schedule for the rulemaking is as follows:

- 8/21/98, Conduct public workshop to discuss ANPR
- 9/18/98, Receive public comments on ANPR
- 10/16/98, Provide proposed rule package to NRC staff working group for comment
- 11/27/98, Provide proposed rule package to formal concurrence chain
- 1/8/99, Provide proposed rule package to CRGR and ACRS
- 2/5/99, Complete briefing of CRGR and ACRS
- 2/26/99, Provide proposed rule package to Commission
- 4/2/99, Publish proposed rule
- 5/2/99, Initial public comments due to OMB (with copies to NRC), 30 days after publication
- 6/1/99, Receive OMB approval, 60 days after publication
- 6/15/99, Public comments due to NRC, 75 days after publication

• 7/2/99, Provide final rule package to NRC staff working group for comment
• 8/13/99, Provide final rule package to formal concurrence chain
• 9/17/99, Provide final rule package to CRGR and ACRS
• 11/5/99, Complete briefing of CRGR and ACRS
• 11/26/99, Provide final rule package to Commission
• 1/7/00, Publish final rule

Comments requested: The Commission invites advice and recommendations from all interested persons regarding changes to the event reporting requirements for nuclear power reactors contained in 10 CFR 50.72 and 50.73. Comments and supporting reasons are particularly requested on:

(1) the objectives;

(2) the contemplated amendments, including:

(a) the clarity and specificity of the contemplated criteria for reporting design and analysis defects and deviations; and

(b) the proposed initial reporting time of 8 hours for events that warrant prompt telephone notification but do not involve emergencies;

(3) the contemplated schedule.

To the extent feasible, commenters are requested to address the following factors.

(1) Identify a specific reporting requirement.

(2) Describe the problem with that requirement.

(3) Describe the proposed resolution.

(4) Estimate the change in resource burden as a result of the proposed resolution.

In order to support meaningful consideration, comments on resource burden should provide the basis for the burden estimate in sufficient detail to allow specific identification of what causes the burden and how particular changes might affect the burden.

Other Reactor Reporting Requirements

Objectives: The NRC is also interested in evaluating other reactor reporting rules (beyond 10 CFR 50.72 and 50.73) to identify areas where reporting requirements can be risk-informed and/or simplified. For example, the time limit for reporting could be adjusted based on the safety significance of the event or issue and the need for NRC's immediate action. The burden associated with reporting events, conditions or issues with little or no safety or risk significance should be minimized.

Comments requested: Public comments are requested to identify and propose changes to other reactor reporting requirements (beyond 10 CFR 50.72 and 50.73) that are potential candidates for modifying to a simplified, less burdensome, more risk-informed approach. This issue will be included in the agenda for the public meeting to discuss this ANPR, which is identified in the schedule provided above.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Criminal penalties, Fire protection, Intergovernmental relations, Nuclear power plants and reactors, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

The authority citation for this document is: 42 U.S.C. 2201; 42 U.S.C. 5841.

Dated at Rockville, Maryland, this 16th day of July, 1998

For the Nuclear Regulatory Commission.

L. Joseph Callan,

Executive Director for Operations

[FR Doc. 98–19637 Filed 7–22–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AF93

Expand Applicability of Regulations to Holders of, and Applicants for, Certificates of Compliance and Their Contractors and Subcontractors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to amend its regulations to expand the applicability of its regulations to holders of, and applicants for, Certificates of Compliance and their contractors and subcontractors. This amendment would enhance the Commission's ability to take enforcement action against these persons when legally binding requirements are violated. The intent of this action is to emphasize the safety and regulatory significance associated with violations of the regulations.

DATES: The comment period expires October 6, 1998. Comments received after this date will be considered if it is practical to do so, but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: *Comments may be sent to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attn: Rulemakings and Adjudications Staff. Hand deliver comments to 11555 Rockville Pike, Rockville, MD, between 7:45 am and 4:15 pm on Federal workdays.

You may also provide comments via the NRC's interactive rulemaking web site through the NRC's home page (http://www.nrc.gov). This site provides the availability to upload comments as files (any format) if your web browser supports that function. For information about the interactive rulemaking site, contact Ms. Carol Gallagher, (301) 415–5905; e-mail CAG@nrc.gov.

Certain documents related to this rulemaking, including comments received by the NRC, may be examined at the NRC Public Document Room, 2120 L Street NW., (Lower Level), Washington, DC. These same documents also may be viewed and downloaded electronically via the interactive rulemaking website established by NRC for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Anthony DiPalo, telephone (301) 415–6191, e-mail, ajd@nrc.gov, or Philip Brochman, telephone (301) 415–8592, e-mail, pgb@nrc.gov, of the Office of Nuclear Materials Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

Background

The Commission's regulations at 10 CFR Part 72 were originally established to provide specific licenses for the storage of spent nuclear fuel in an independent spent fuel storage installation (ISFSI) (45 FR 74693; November 12, 1980). Later, Part 72 was amended to include the storage of high-level waste (HLW) at a monitored retrieval storage (MRS) installation. In 1990, the Commission amended Part 72 to include a process for approving the design of spent fuel storage casks by issuance of a certificate of compliance (Subpart L) and for granting a general license to reactor licensees (Subpart K) to use NRC-approved casks for storage of spent nuclear fuel (55 FR 29181; July 18, 1990). In the past, the Commission has noted performance problems with holders of, and applicants for, a certificate of compliance under Part 72. When the NRC identifies a failure to comply with Part 72 requirements by these persons, the enforcement sanctions available under the current NRC Enforcement Policy have been limited to administrative actions.

The NRC Enforcement Policy [1] and its implementing program have been established to support the NRC's overall safety mission in protecting public health and safety and the environment. Consistent with this purpose, enforcement actions are intended to be used as a deterrent to emphasize the importance of compliance with requirements and to encourage prompt identification and prompt, comprehensive correction of the violations. Enforcement sanctions consist of Notices of Violation (NOV), civil penalties, and orders of various types. In addition to formal enforcement actions, the NRC also uses related administrative actions such as Notices of Nonconformance (NON), Confirmatory Action Letters, and Demands for Information to supplement the NRC's enforcement program. The NRC expects licensees and holders of, and applicants for, a certificate of compliance to adhere to any obligations and commitments resulting from these actions and will not hesitate to issue appropriate orders to ensure that these obligations and commitments are met. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. An NOV is a written notice setting forth one or more violations of a legally binding requirement.

Discussion

In promulgating Subpart L, the Commission intended that selected Part 72 provisions would apply to cask certificate holders and applicants for a cask certificate of compliance (CoC). For example, § 72.234(b) requires that, as a condition for approval of a CoC, "[d]esign, fabrication, testing, and maintenance of spent fuel storage casks be conducted under a quality assurance program that meets the requirements of Subpart G of this part." However, the quality assurance requirements in Subpart G do not refer to certificate holders, but only to licensees and applicants for licenses. Further, some Subpart L regulations apply explicitly only to "the applicant" (e.g., § 72.232) or to "the cask vendor" (e.g., § 72.234(d)(1)). Some of these provisions are written in the passive voice so that it is not clear who is responsible for meeting the requirement (e.g., § 72.236). Although certificates of compliance are legally binding documents, certificate holders or applicants for a CoC and their contractors and subcontractors have not clearly been brought within the scope of Part 72 requirements. Because the terms "certificate holder," and "applicant for a certificate of compliance" do not appear in the above-cited Part 72 regulations, the NRC has not had a clear basis to cite these persons for violations of Part 72 requirements in the same way it treats licensees. When the NRC has identified a failure to comply with Part 72 requirements by these persons, it has issued a NON rather than NOV.

Although a NON and a NOV appear to be similar, the Commission prefers the issuance of a NOV because: (1) the issuance of a NOV effectively conveys to both the person violating the requirement and the public that a violation of a legally binding requirement has occurred; (2) the use of graduated severity levels associated with a NOV allows the NRC to effectively convey to both the person violating the requirement and the public a clearer perspective on the safety and regulatory significance of the violation; and (3) violation of a regulation reflects the NRC conclusion that potential risk to public health and safety could exist. This evidence can then be used to support the issuance of further enforcement sanctions such as orders.

Over the last 2 years, the Commission has observed problems with the performance of several certificate holders and their contractors and subcontractors. These problems have occurred in design, design control, fabrication and corrective action areas. Problems in these areas are typically covered under the quality assurance program. In FY 1996, the NRC staff identified numerous instances of nonconformance by certificate holders and their contractors and subcontractors failing to comply with requirements. The Commission has concluded that use of the additional enforcement sanctions which are available in the NRC Enforcement Policy are required to address the performance problems which have occurred in the spent fuel storage industry. Consequently, the Commission would revise Part 72 to explicitly make certificate holders and applicants for a CoC, and their contractors and subcontractors, subject to those requirements and thereby allow the use of enforcement sanctions against these persons, rather than administrative sanctions. The Commission believes that these amendments will have the effect of allowing both the public and those persons designing and building spent fuel storage casks to clearly understand the expectations which have been placed on them.

The proposed rulemaking will primarily focus on amending regulations in Subpart G to explicitly include certificate holders, applicants for a CoC, and their contractors and subcontractors. Further, in Subpart L, this proposed rulemaking would also revise §§ 72.232, 72.234, and 72.236 to clarify who is responsible for ensuring that these requirements are met. Terms such as cask user, cask model, cask vendor, and representative of a cask user used in these sections are not defined and would be replaced with defined terms. Additionally, changes would also be made to § 72.10, "Employee Protection," and § 72.11, "Completeness and Accuracy of Information," to include certificate holders and applicants for a certificate. Section 72.3 would be revised to (1) incorporate definitions for "certificate holder," "certificate of compliance," and "spent fuel storage cask," (2) revise the definitions for "design bases" and "structures, systems, and components important to safety" to include the term "spent fuel storage cask," and (3) revise the definition for "design capacity" to be consistent with the Commission's policy on the use of metric units. Section 72.236 would be revised and would be reissued as being subject to the criminal penalty provisions of § 223 of the Atomic Energy Act and § 72.86(b), "Criminal Penalties," would be revised to delete mention of § 72.236 as a conforming change.

Lastly, a new § 72.242 would be added to Subpart L to identify recordkeeping and reporting requirements for certificate holders and applicants for a CoC. Paragraphs (a), (b), and (c) would require the certificate holder or applicant for a CoC to maintain any records or make any reports which are required by the conditions of a CoC or by the rules, regulations, and orders of the Commission. Paragraph (d) would require that a certificate holder submit a written report to the NRC within 30 days when the certificate holder identifies certain deficiencies in the design or fabrication of a spent fuel storage cask which has been delivered to a licensee. This requirement would apply when the deficiency affects the ability of structures, systems, and components which are important to safety to perform their function. This requirement is intended to address instances where the deficiency does not rise to the level of a "substantial safety hazard" which 10 CFR Part 21 requires certificate holders and applicants to report to the NRC. The Commission believes that by requiring this information, it will be in a position to more effectively evaluate the scope of

[1] NUREG–1600, "General Statement of Policy and Procedures for NRC Enforcement Actions," July 1995 (60 FR 34381; dated June 30, 1995).

any potential impacts on public health and safety from cask deficiencies and to ensure that a licensee (who is responsible for evaluating and resolving the problem) completes those actions in a timely manner. The Commission believes that this regulation need only apply to casks which have been delivered to licensees (i.e., they are out of the control of the certificate holder). Any deficiencies identified in casks over which the certificate holder still has custody would be identified in accordance with the certificate holder's quality assurance program. Overall, this new section would be similar to the reporting and recordkeeping requirements imposed on licensees in §§ 72.75 and 72.80.

Discussion of Proposed Amendments by Section

Subpart A—General Provisions

Section 72.2 Scope

The term spent fuel storage cask would be added to paragraph (b) of this section. This is a conforming amendment.

Section 72.3 Definitions

Definitions for spent fuel storage cask, certificate holder, and certificate of compliance would be added to this section. The term spent fuel storage cask would be added to the existing definitions for design bases and structures, systems, and components important to safety. The definition for design capacity would be revised to be consistent with the Commission's policy on use of metric units.

Section 72.10 Employee Protection, and

Section § 72.11 Completeness and Accuracy of Information

The terms certificate holder and applicants for a CoC would be added.

Subpart D—Records, Reports, Inspections, and Enforcement

Section 72.86 Criminal penalties

Paragraph (b) currently includes those sections under which criminal sanctions are not issued. This paragraph would be revised to delete reference to § 72.236, because this section is being reissued as being subject to the criminal penalty provision of § 223 of the Atomic Energy Act. Similarly, certificate holders and applicants who fail to comply with the new § 72.242 would also be subject to criminal penalties. Therefore, § 72.242 will not be included in § 72.86(b).

Subpart G—Quality Assurance

Sections 72.140 Through 72.176

The term "certificate holder and applicants for a CoC and their contractors and subcontractors" would be added, as appropriate, to these sections to explicitly define responsibilities associated with quality assurance requirements. In 1990, when the Commission added Subparts K and L to Part 72 to provide a process for approving the design of a spent fuel storage cask, which would be used under a general license, the Commission's intent was that certificate holders and applicants for a CoC follow the quality assurance regulations of Part 72. Section 72.234(b) required that activities relating to the design, fabrication, testing, and maintenance of spent fuel storage casks shall be conducted under a quality assurance program that meets the requirements of Subpart G of Part 72. However, the 1990 amendments to Part 72 did not amend Subpart G to include certificate holders and applicants for a CoC. In addition, other changes would be made to individual sections of Subpart G as described below.

In § 72.140, paragraphs (a) and (b) would be revised to clarify the responsibilities of a certificate holder and a licensee with respect to who is responsible for ensuring that the quality assurance program is properly implemented. Paragraph (c) would be revised to provide milestones for a licensee and a certificate holder when the NRC must approve their quality assurance program. The notification requirement in paragraph (d) would be revised to require that the NRC be notified in accordance with the standard notification requirements contained in § 72.4.

To provide clarity, § 72.142 would be rearranged. The new paragraph (a) would be revised to indicate that all of the persons associated with quality assurance activities for an ISFSI or a spent fuel storage cask (i.e., the licensee, certificate holder, applicants, and their contractors and subcontractors) are responsible for implementation of the quality assurance program.

In § 72.144 paragraphs (a) and (b), § 72.154 paragraph (b), § 72.162, and § 72.168 paragraph (a) the term spent fuel storage cask would be added to the terms ISFSI and MRS.

Subpart L—Approval of Spent Fuel Storage Casks

Section 72.232 Inspection and Tests

This section would be reformatted by adding a new paragraph (b) and renumbering existing paragraphs (b) and (c). In paragraphs (a), (b), and (c) the term "applicant" would be replaced with "certificate holder, applicant for a CoC, and their contractors and subcontractors." In paragraph (d), the term "applicant" would be replaced with "certificate holder and applicant for a CoC." Contractors and subcontractors would not be added to Paragraph (d) because the Commission holds the certificate holder or applicant for a CoC responsible for meeting this requirement.

Paragraph (a) would be revised to permit the inspection of premises and activities related to the design of a spent fuel storage cask as well as to the fabrication and testing of such casks. This change is made for the sake of completeness.

New paragraph (b) would include a requirement to permit the inspection of records related to design, fabrication, and testing of spent fuel storage casks. This requirement is intended to make clear the responsibility of certificate holders, applicants for a CoC, and their contractors and subcontractors to permit access to these records. This requirement is similar to the existing inspection and testing regulations in 10 CFR Parts 30, 40, 50, and 70.

Section 72.234 Conditions of Approval

This section would be revised to clarify who is responsible for accomplishing these requirements. The term "cask vendor" would be replaced with "certificate holder." The term "cask user" would be replaced with "a general licensee using a cask." The term "general licensee" has been used because a site-specific licensee cannot utilize the provisions of Subparts K and L. In addition, the acronym "CoC" is used in place of the term "Certificate of Compliance" where appropriate.

Section 72.236 Specific Requirements for Spent Fuel Storage Cask Approval

This section would be revised to clarify who is responsible for accomplishing these requirements. A new sentence has been added at the beginning of this section which indicates who has responsibility for ensuring that each of the requirements contained in paragraphs (a) through (m) is met. This section also would be reissued as being subject to the criminal penalty provisions of § 223 of the Atomic Energy Act. Applicants for a CoC would not be required to ensure that the requirements of paragraphs (j) and (k) were met because these requirements apply to activities which can only occur after a cask has been fabricated; and an applicant cannot

begin fabrication of a cask until a CoC has been issued and an applicant has become a certificate holder (see § 72.234(c)).

Section 72.240 Conditions for Spent Fuel Storage Cask Reapproval

The term "user of a cask" would be replaced by "a general licensee using a cask" and the term "cask model" would be replaced by "design of a spent fuel storage cask." The term "representative of a cask user" would be replaced with "the representative of a general licensee using a cask." In addition, the acronym "CoC" is used in place of the term "Certificate of Compliance" where appropriate.

Section 72.242 Recordkeeping and Reports

This new section identifies additional recordkeeping responsibilities for certificate holders and applicants for a CoC and reporting requirements for certificate holders. This section is intended to provide for any other recordkeeping responsibilities which are not already covered by the regulations in § 72.234(d). This would include records required to be kept by a condition of the CoC or records relating to design changes, nonconformances, quality assurance audits, and corrective actions. Violations of this section would be subject to the criminal penalty provisions of § 223 of the Atomic Energy Act. Paragraphs (a), (b) and (c) are similar to the recordkeeping requirements imposed on licensees in § 72.80(a), (c), and (d).

A new requirement would be established in paragraph (d) for certificate holders to submit written reports to the NRC when they identify design or fabrication deficiencies, in structures, systems, and components which are important to safety, for casks which have been delivered to licensees. This requirement is intended to inform the NRC of deficiencies which may affect existing casks and thereby potentially affect public health and safety. This requirement is similar to the event reporting requirement imposed on licensees in § 72.75(c)(2).

Criminal Penalties

For the purposes of Section 223 of the Atomic Energy Act (AEA), the Commission is issuing the proposed rule to amend 10 CFR 72: 72.10, 72.11, 72.140 through 72.176, 72.232, 72.234, 72.236, and 72.242, under one or more of sections 161b, 161i, or 161o of the AEA. Willful violations of the rule would be subject to criminal enforcement.

Compatibility of Agreement State Regulations

Under the "Policy Statement on Adequacy and Compatibility of Agreement State Programs" approved by the Commission on June 30, 1997, and published in the **Federal Register** September 3, 1997 (62 FR 46517), this rule is classified as compatibility Category "NRC." Compatibility is not required for Category "NRC" regulations. The NRC program elements in this category are those that relate directly to areas of regulation reserved to the NRC by the AEA or the provisions of Title 10 of the Code of Federal Regulations, and although an Agreement State may not adopt program elements reserved to NRC, it may wish to inform its licensees of certain requirements via a mechanism that is consistent with the particular State's administrative procedure laws, but does not confer regulatory authority on the State.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described as a categorical exclusion in 10 CFR 51.22(c)(2) and (3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule contains a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). However, the burden from this proposed rule is insignificant as compared to the existing information collection burden of Part 72. The section added by this amendment (§ 72.242) will add new burdens for recordkeeping and reporting requirements. The staff estimates this burden as six hours annually. Therefore, the Commission believes that this burden is insignificant by comparison with Part 72's overall burden which is in excess of 21,000 hours. Existing requirements were approved by the Office of Management and Budget, approval numbers 3150–0017, 3150–0151, 3150–0127, 3150–0135, 3150–0009, 3150–0132, 3150–0036, and 3150–0032. The amendments of the proposed rule currently fall under the existing approval numbers unless OMB decides otherwise. Therefore, under the Paperwork Reduction Act of 1995, a new clearance submittal is not required.

Public Protection Notification

If an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collections.

Regulatory Analysis

Statement of the Problem

The Commission's regulations at 10 CFR Part 72 were originally designed to provide specific licensing requirements for the storage of spent nuclear fuel in an independent spent fuel storage installation (ISFSI) (45 FR 74693, November 12, 1980). Later, these requirements were amended to include the storage of high-level waste (HLW) at a monitored retrieval storage (MRS) installation. In 1990, the Commission amended Part 72 to include a process for approving the design of spent fuel storage casks by issuance of a certificate of compliance (Subpart L) and for granting a general license to reactor licensees (Subpart K) to use NRC-approved casks for storage of spent nuclear fuel (55 FR 29181, July 18, 1990). In the past, the Commission experienced performance problems with holders of and applicants for a certificate of compliance under Part 72. In FY 1996, the NRC staff identified numerous instances of nonconformance by certificate holders and their contractors and subcontractors failing to comply with requirements.

When the NRC identifies a failure to comply with Part 72 requirements by these persons, the NRC has issued Notices of Nonconformance (NON). The issuance of a NON does not effectively convey that a violation of a legally binding requirement has occurred.

Because the current regulations do not clearly impose requirements on these persons, the NRC has not taken enforcement action such as a Notice of Violation (NOV) against certificate holders and applicants and their contractors and subcontractors.

Some Part 72 provisions for cask storage of spent fuel (e.g., the quality assurance requirements) were intended to apply to cask certificate holders and applicants for cask certificates of compliance, as well as to holders of licenses and applicants for a license to store spent nuclear fuel at an ISFSI. However, some of the Part 72 requirements intended to apply to certificate holders and applicants do not clearly bring these persons within the scope of the requirement. For this reason, the NRC has not had a clear basis to cite certificate holders and applicants for violations of those Part 72 requirements.

Purpose of the Rulemaking

The purpose of this rulemaking is to expand the applicability of Part 72 to holders of, and applicants for, certificates of compliance and their contractors and subcontractors. This would allow the NRC staff to take enforcement action in the form of NOVs rather than administrative action in the form of a NON when requirements are violated. While it may appear that a NON and a NOV are similar, the Commission believes that the issuance of a NOV is preferred because: (1) The issuance of a NOV effectively conveys to both the person violating the requirement and the public that a violation of a legally binding requirement has occurred; (2) the use of graduated severity levels associated with a NOV allows the NRC to effectively convey to both the person violating the requirement and the public a clearer perspective on the safety and regulatory significance of the violation; and (3) violation of a regulation reflects the NRC conclusion that potential risk to public health and safety could exist and this evidence can then be used to support the issuance of further enforcement sanctions such as orders.

Current Regulatory Framework and Proposed Changes

In promulgating Subpart L, the Commission intended that selected Part 72 provisions would apply to cask certificate holders and applicants for a certificate of compliance (CoC). For example, § 72.234(b) requires that, as a condition for approval of a certificate of compliance, "[d]esign, fabrication, testing, and maintenance of spent fuel storage casks be conducted under a quality assurance program that meets the requirements of subpart G of this part." However, the quality assurance requirements in Subpart G do not refer to certificate holders, but only to licensees and applicants for licenses. Some of the Subpart L regulations apply explicitly only to "the applicant" (e.g., § 72.232), or to "the cask vendor" (e.g., § 72.234(d)(1)). Some are written in the passive voice so that it is not clear who is responsible for meeting the requirement (e.g., § 72.236). Because of these regulatory deficiencies, certificate holders or applicants for a CoC and their contractors and subcontractors have not clearly been brought within the scope of Part 72 requirements; and the NRC has not had a clear basis to cite these persons for violations of Part 72 requirements. Presently, when the NRC has identified a failure to comply with Part 72 requirements by these persons, it has issued an administrative action under the NRC's Enforcement Policy.

The NRC Enforcement Policy and its implementing program have been established to support the NRC's overall safety mission in protecting public health and safety and the environment. Consistent with this purpose, enforcement actions are intended to be used (1) as a deterrent to emphasize the importance of compliance with requirements and (2) to encourage prompt identification and prompt, comprehensive correction of the violations.

Enforcement sanctions consist of Notices of Violation (NOV), civil penalties, and orders of various types. In addition to the formal enforcement actions, the NRC also uses related administrative actions such as Notices of Nonconformance (NON), Confirmatory Action Letters, and Demands for Information to supplement the NRC's enforcement program. The NRC expects licensees and holders of and applicants for a certificate of compliance to adhere to any obligations and commitments resulting from these actions and will not hesitate to issue appropriate orders to ensure that these obligations and commitments are met. The nature and extent of the enforcement action is intended to reflect the seriousness of the violation involved. A NOV is a written notice setting forth one or more violations of a legally binding requirement.

While it may appear that a NON and a NOV are similar, the Commission believes that the issuance of a NOV is preferred because: (1) the issuance of a NOV effectively conveys to both the person violating the requirement and the public that a violation of a legally binding requirement has occurred; (2) the use of graduated severity levels associated with a NOV allows the NRC to effectively convey to both the person violating the requirement and the public a clearer perspective on the safety and regulatory significance of the violation; and (3) violation of a regulation reflects the NRC conclusion that potential risk to public health and safety could exist. This evidence can then be used to support the issuance of further enforcement sanctions such as orders.

The proposed rulemaking will primarily focus on amending regulations in Subparts G and L to make certificate holders/applicants explicitly subject to those requirements. Some of the Subpart L regulations apply explicitly only to "the applicant," e.g., § 72.232, or to "the cask vendor," e.g., § 72.234(d)(1), or are written in the passive voice so that it is not clear who is responsible for meeting the requirement, e.g., § 72.236. This proposed rule would revise the regulations to place explicit requirements on certificate holders and applicants and their contractors and subcontractors. Additionally, terms contained in Subpart L such as cask user, cask model, cask vendor, and representative of a cask user are not defined and would be replaced with defined terms. Changes would be made to § 72.10, "Employee Protection," and § 72.11, "Completeness and Accuracy of Information," to include certificate holders and applicants for a CoC. Section 72.3 would be revised to (1) incorporate definitions for "certificate holder," "certificate of compliance," and "spent fuel storage cask," (2) to revise the definitions for "design bases" and "structures, systems, and components important to safety" to include the term "spent fuel storage cask," and (3) to revise the definition for "design capacity" to be consistent with the Commission's policy on the use of metric units. Section 72.236 would be revised and would be reissued as being subject to the criminal penalty provisions of § 223 of the Atomic Energy Act and § 72.86(b), "Criminal Penalties," would be revised to delete mention of § 72.236 as a conforming change. Section 72.232 would be reformatted by adding a new paragraph (b) and renumbering existing paragraphs (b) and (c). The term "applicant" would be replaced by the terms "certificate holder, applicant for a CoC, and their contractors and subcontractors" or "certificate holder and applicant for a CoC" as appropriate. Requirements to permit inspection of records, premises, and activities related to the design, fabrication, and testing of spent fuel storage casks have been clarified. Lastly, a new § 72.242 would be added to Subpart L to address additional recordkeeping and reporting requirements for certificate holders and applicants for a CoC, in addition to those already required by § 72.234(d). This new section would be similar to the requirements imposed on licensees in §§ 72.75 and 72.80.

Alternatives

This regulatory analysis considered three alternatives:

Alternative 1: Revise Part 72 to expand the applicability of certain provisions to certificate holders, applicants for a CoC, and their contractors and subcontractors.

The Commission believes that problems in the areas of quality assurance, quality control, fabrication control and design control exist, are significant, and in part reflect the fact

that certificate holders and applicants, and their contractors and subcontractors, have not been explicitly included in certain Part 72 requirements despite the NRC's intent that these persons follow these requirements. In the past, the Commission has been unable to take enforcement action against these persons when they did not comply with the regulations, because they have not been explicitly subject to the requirements of Part 72. However, the Commission believes that the need to be able to take enforcement action to the level of contractors and subcontractors is important because these persons actually accomplish the manufacturing and testing of spent fuel storage casks. These contractors and subcontractors have typically established quality assurance programs as a consequence of their contracts with the certificate holder.

Alternative 1 would allow the NRC to take enforcement actions against these persons, as necessary, by allowing the issuance of a NOV when they fail to comply with the requirements of Part 72. Presently the NRC issues a NON in these instances. While it may appear that a NON and a NOV are similar, the Commission believes that the issuance of a NOV is preferred because: (1) the issuance of a NOV effectively conveys to both the person violating the requirement and the public that a violation of a legally binding requirement has occurred; (2) the use of graduated severity levels associated with a NOV allows the NRC to effectively convey to both the person violating the requirement and the public a clearer perspective on the safety and regulatory significance of the violation; and (3) violation of a regulation reflects the NRC conclusion that potential risk to public health and safety could exist. This evidence can then be used to support the issuance of further enforcement sanctions such as orders.

The NRC has estimated that each certificate holder or applicant for a CoC, on average, has three contractors and subcontractors. Consequently, the NRC estimates a total of 60 contractors and subcontractors would be affected by these changes to Part 72 described in Alternative 1. Because certificate holders, applicants for a CoC, and their contractors and subcontractors for the most part have already been meeting the requirements of Part 72, as either a condition of a certificate of compliance or as a condition of a contract between a certificate holder and their contractors and subcontractors, the burdens imposed by this alternative are not significantly increased. Alternative 2 would not impose these impacts.

The Commission believes that alternative 1 will enable the NRC to make more effective use of the Enforcement Policy against the designers, fabricators, and testers of spent fuel storage casks and that this will lead to an overall improvement in the safety and quality of spent fuel storage casks.

Alternative 2: Revise Part 72 to expand the applicability of certain provisions to certificate holders and applicants for a CoC.

The difference between alternatives 1 and 2 is that the latter does not include contractors and subcontractors in clarifying the responsibilities for compliance with Part 72. Therefore, the NRC would not be able to take enforcement actions against these persons under this alternative, but would be forced to continue to use administrative actions. The NRC believes that by taking enforcement actions against these people, it will be able to enhance the protection of public health and safety. Consequently, alternative 2 was rejected.

Alternative 3: No action.

This alternative was rejected, even though staff resources for rulemaking would have been conserved. Under this alternative it is expected that the difficulties the NRC has experienced in the past will continue.

Decision Rationale for Preferred Alternative

Alternative 1 is the preferred choice. The major benefit of this alternative is to allow the NRC to take more effective enforcement actions against certificate holders, applicants for a CoC, and their contractors and subcontractors under the current NRC Enforcement Policy. This would enable both the person violating the regulation and the public to clearly perceive the regulatory and safety significance and consequences of the violation.

Because certificate holders, applicants for a CoC, and their contractors and subcontractors for the most part already have been meeting the requirements of Part 72, as either a condition of a certificate of compliance or as a condition of a contract between a certificate holder and their contractors and subcontractors, the burdens imposed by this amendment are not significantly increased. The new section added by this amendment (72.242) will add new burdens for recordkeeping and reporting requirements. The staff estimates this burden associated with the new § 72.242 to be 6 hours annually. Therefore, the Commission believes that this burden is insignificant by comparison with Part 72's overall burden which is in excess of 21,000 hours.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would amend the regulations to expand the applicability of 10 CFR Part 72 to holders of, and applicants for, Certificates of Compliance (CoC) and their contractors and subcontractors. This requirement would enhance the Commission's ability to take enforcement action in the form of Notices of Violation rather than administrative action in the form of Notices of Nonconformance when legally binding requirements are violated. The proposed rule may appear to impose new requirements on a significant number of small entities (i.e., the contractors and subcontractors associated with certificate holders and applicants for a CoC). These requirements would involve actions such as compliance with quality assurance program requirements in Subpart G of Part 72. However, these entities, for the most part, are already implementing the actions required by Subpart G as a condition of their contracts with the certificate holder or applicant for a CoC. Therefore, the NRC believes that this amendment will not have a significant economic impact on these small entities.

Backfit Analysis

The NRC staff has determined that the backfit rule, 10 CFR 72.62, does not apply to this proposed rule because these amendments do not involve any provisions that would impose backfits as described in 10 CFR 72.62(a). Therefore, a backfit analysis is not required.

List of Subjects in 10 CFR Part 72

Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 is revised to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); Secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.2, paragraph (b) is revised to read as follows:

§ 72.2 Scope.

* * * * *

(b) The regulations in this part pertaining to an independent spent fuel storage installation (ISFSI) and a spent fuel storage cask apply to all persons in the United States, including persons in Agreement States. The regulations in this part pertaining to a monitored retrievable storage installation (MRS) apply only to DOE.

* * * * *

3. In § 72.3, the definitions of *Certificate holder, Certificate of Compliance or CoC,* and *Spent fuel storage cask or cask* are added in alphabetical order, and the definitions of *Design bases, Design capacity, and Structures, systems, and components important to safety* are revised to read as follows:

§ 72.3 Definitions.

* * * * *

Certificate holder means a person who has been issued a Certificate of Compliance by the Commission for a spent fuel storage cask design.

Certificate of Compliance or *CoC* means the certificate issued by the Commission that approves the design of a spent fuel storage cask in accordance with the provisions of subpart L of this part.

* * * * *

Design bases means that information that identifies the specific functions to be performed by a structure, system, or component of a facility or of a spent fuel storage cask and the specific values or ranges of values chosen for controlling parameters as reference bounds for design. These values may be restraints derived from generally accepted state-of-the-art practices for achieving functional goals or requirements derived from analysis (based on calculation or experiments) of the effects of a postulated event under which a structure, system, or component shall meet its functional goals. The values for controlling parameters for external events include—

(1) Estimates of severe natural events to be used for deriving design bases that will be based on consideration of historical data on the associated parameters, physical data, or analysis of upper limits of the physical processes involved; and

(2) Estimates of severe external man-induced events to be used for deriving design bases that will be based on analysis of human activity in the region, taking into account the site characteristics and the risks associated with the event.

Design capacity means the quantity of spent fuel or high-level radioactive waste, the maximum burn up of the spent fuel in MWD/MTU, the terabequerel (curie) content of the waste, and the total heat generation in Watts (btu/hour) that the storage installation is designed to accommodate.

* * * * *

Spent fuel storage cask or *cask* means all the components and systems associated with the container in which spent fuel or other radioactive materials associated with spent fuel are stored in an ISFSI.

* * * * *

Structures, systems, and components important to safety means those features of the ISFSI, MRS, and spent fuel storage cask whose function is—

(1) To maintain the conditions required to store spent fuel or high-level radioactive waste safely;

(2) To prevent damage to the spent fuel or the high-level radioactive waste container during handling and storage; or

(3) To provide reasonable assurance that spent fuel or high-level radioactive waste can be received, handled, packaged, stored, and retrieved without undue risk to the health and safety of the public.

4. Section 72.9 is revised to read as follows:

§ 72.9 Information collection requirements: OMB approval.

(a) The Nuclear Regulatory Commission has submitted the information collection requirements contained in this part to the Office of Management and Budget (OMB) for approval as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). OMB has approved the information collection requirements contained in this part under control number 3150–0132.

(b) The approved information collection requirements contained in this part appear in §§ 72.7, 72.11, 72.16, 72.19, 72.22 through 72.34, 72.42, 72.44, 72.48 through 72.56, 72.62, 72.70 through 72.82, 72.90, 72.92, 72.94, 72.98, 72.100, 72.102, 72.104, 72.108, 72.120, 72.126, 72.140 through 72.176, 72.180 through 72.186, 72.192, 72.206, 72.212, 72.216, 72.218, 72.230, 72.232, 72.234, 72.236, 72.240, and 72.242.

5. In § 72.10, paragraph (a), the introductory text of paragraph (c), and paragraphs (c)(1) and (e)(1) are revised to read as follows:

§ 72.10 Employee protection.

(a) Discrimination by a Commission licensee, certificate holder, applicant for a Commission license or a CoC, or a contractor or subcontractor of any of these against an employee for engaging in certain protected activities is prohibited. Discrimination includes discharge and other actions that relate to compensation, terms, conditions, or privileges of employment. The protected activities are established in section 211 of the Energy Reorganization Act of 1974, as amended, and in general are related to the administration or enforcement of a requirement imposed under the Atomic Energy Act or the Energy Reorganization Act.

* * * * *

(c) A violation of paragraphs (a), (e), or (f) of this section by a Commission licensee, certificate holder, applicant for a Commission license or a CoC, or a contractor or subcontractor of any of these may be grounds for:

(1) Denial, revocation, or suspension of the license or the CoC.

* * * * *

(e)(1) Each licensee, certificate holder, and applicant for a license or CoC shall prominently post the revision of NRC Form 3, "Notice to Employees," referenced in 10 CFR 19.11(c). This form shall be posted at locations sufficient to permit employees protected by this section to observe a copy on the way to or from their place of work. Premises shall be posted not later than 30 days after an application is docketed and remain posted while the application is pending before the Commission, during the term of the license or CoC, and for 30 days following license or CoC termination.

* * * * *

6. Section 72.11 is revised to read as follows:

§ 72.11 Completeness and accuracy of information.

(a) Information provided to the Commission by a licensee, certificate holder, or an applicant for a license or CoC; or information required by statute or by the Commission's regulations, orders, license or CoC conditions, to be maintained by the licensee or certificate holder, shall be complete and accurate in all material respects.

(b) Each licensee, certificate holder, or applicant for a license or CoC shall notify the Commission of information identified by the licensee, certificate holder, or applicant for a license or CoC as having for the regulated activity a significant implication for public health and safety or common defense and security. A licensee, certificate holder, or an applicant for a license or CoC violates this paragraph only if the licensee, certificate holder, or applicant for a license or CoC fails to notify the Commission of information that the licensee, certificate holder, or applicant for a license or CoC has identified as having a significant implication for public health and safety or common defense and security. Notification shall be provided to the Administrator of the appropriate Regional Office within two working days of identifying the information. This requirement is not applicable to information which is already required to be provided to the Commission by other reporting or updating requirements.

7. In § 72.86, paragraph (b) is revised to read as follows:

§ 72.86 Criminal penalties.

* * * * *

(b) The regulations in part 72 that are not issued under sections 161b, 161i, or 161o for the purposes of section 223 are as follows: §§ 72.1, 72.2, 72.3, 72.4, 72.5, 72.7, 72.8, 72.9, 72.16, 72.18, 72.20, 72.22, 72.24, 72.26, 72.28, 72.32, 72.34, 72.40, 72.46, 72.56, 72.58, 72.60, 72.62, 72.84, 72.86, 72.90, 72.96, 72.108, 72.120, 72.122, 72.124, 72.126, 72.128, 72.130, 72.182, 72.194, 72.200, 72.202, 72.204, 72.206, 72.210, 72.214, 72.220, 72.230, 72.238, and 72.240.

8. Section 72.140 is revised to read as follows:

§ 72.140 Quality assurance requirements.

(a) *Purpose.* This subpart describes quality assurance requirements that apply to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, modification of structures, systems, and components, and decommissioning that are important to safety. As used in this subpart, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a structure, system, or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements. The certificate holder, applicant for a CoC, and their contractors and subcontractors are responsible for the quality assurance requirements as they apply to the design, fabrication, and testing of a spent fuel storage cask until possession of the spent fuel storage cask is transferred to the licensee. The licensee and the certificate holder are also simultaneously responsible for these quality assurance requirements via the oversight of contractors and subcontractors.

(b) *Establishment of program.* Each licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish, maintain, and execute a quality assurance program satisfying each of the applicable criteria of this subpart, and satisfying any specific provisions which are applicable to the licensee's, applicant's for a license, certificate holder's, applicant's for a CoC, and their contractor's and subcontractor's activities. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall execute the applicable criteria in a graded approach to an extent that is commensurate with the importance to safety. The quality assurance program shall cover the activities identified in this subpart throughout the life of the activity. For licensees, this includes activities from the site selection through decommissioning prior to termination of the license. For certificate holders, this includes activities from development of the spent fuel storage cask design through termination of the CoC.

(c) *Approval of program.* (1) The licensee shall obtain Commission approval of its quality assurance program prior to receipt of spent fuel at the ISFSI or spent fuel and high-level radioactive waste at the MRS.

(2) The certificate holder shall obtain Commission approval of its quality assurance program prior to commencing fabrication or testing of a spent fuel storage cask.

(3) Each licensee or certificate holder shall file a description of its quality assurance program, including a discussion of which requirements of this subpart are applicable and how they will be satisfied, in accordance with § 72.4.

(d) *Previously approved programs.* A Commission-approved quality assurance program which satisfies the applicable criteria of appendix B to part 50 of this chapter and which is established, maintained, and executed with regard to an ISFSI will be accepted as satisfying the requirements of paragraph (b) of this section. Prior to initial use, the licensee shall notify the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, of its intent to apply its previously approved appendix B program to ISFSI activities. The licensee shall identify the program by date of submittal to the Commission, docket number, and date of Commission approval.

9. Section 72.142 is revised to read as follows:

§ 72.142 Quality assurance organization.

(a) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall be responsible for the establishment and execution of the quality assurance program. The licensee and certificate holder may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, but the licensee and the certificate holder shall retain responsibility for the program. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall clearly establish and delineate in writing the authority and duties of persons and organizations performing activities affecting the functions of structures, systems and components which are important to safety. These activities include performing the functions associated with attaining

quality objectives and the quality assurance functions.

(b) The quality assurance functions are—

(1) Assuring that an appropriate quality assurance program is established and effectively executed; and

(2) Verifying, by procedures such as checking, auditing, and inspection, that activities affecting the functions that are important to safety have been correctly performed. The persons and organizations performing quality assurance functions shall have sufficient authority and organizational freedom to identify quality problems; to initiate, recommend, or provide solutions; and to verify implementation of solutions.

(c) The persons and organizations performing quality assurance functions shall report to a management level that ensures that the required authority and organizational freedom, including sufficient independence from cost and schedule considerations when these considerations are opposed to safety considerations, are provided. Because of the many variables involved, such as the number of personnel, the type of activity being performed, and the location or locations where activities are performed, the organizational structure for executing the quality assurance program may take various forms, provided that the persons and organizations assigned the quality assurance functions have the required authority and organizational freedom. Irrespective of the organizational structure, the individual(s) assigned the responsibility for assuring effective execution of any portion of the quality assurance program at any location where activities subject to this section are being performed must have direct access to the levels of management necessary to perform this function.

10. Section 72.144 is revised to read as follows:

§ 72.144 Quality assurance program.

(a) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish, at the earliest practicable time consistent with the schedule for accomplishing the activities, a quality assurance program which complies with the requirements of this subpart. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with these procedures throughout the period during which the ISFSI or MRS is licensed or the spent fuel storage cask is certified. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall identify the structures, systems, and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

(b) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors, through their quality assurance program(s), shall provide control over activities affecting the quality of the identified structures, systems, and components to an extent commensurate with the importance to safety, and as necessary to ensure conformance to the approved design of each ISFSI, MRS, or spent fuel storage cask. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall ensure that activities affecting quality are accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanliness; and assurance that all prerequisites for the given activity have been satisfied. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall take into account the need for special controls, processes, test equipment, tools and skills to attain the required quality and the need for verification of quality by inspection and test.

(c) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall base the requirements and procedures of their quality assurance program(s) on the following considerations concerning the complexity and proposed use of the structures, systems, or components:

(1) The impact of malfunction or failure of the item on safety;

(2) The design and fabrication complexity or uniqueness of the item;

(3) The need for special controls and surveillance over processes and equipment;

(4) The degree to which functional compliance can be demonstrated by inspection or test; and

(5) The quality history and degree of standardization of the item.

(d) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall provide for indoctrination and training of personnel performing activities affecting quality as necessary to ensure that suitable proficiency is achieved and maintained.

(e) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall review the status and adequacy of the quality assurance program at established intervals. Management of other organizations participating in the quality assurance program shall regularly review the status and adequacy of that part of the quality assurance program which they are executing.

11. Section 72.146 is revised to read as follows:

§ 72.146 Design control.

(a) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to ensure that applicable regulatory requirements and the design basis, as specified in the license or CoC application for those structures, systems, and components to which this section applies, are correctly translated into specifications, drawings, procedures, and instructions. These measures shall include provisions to ensure that appropriate quality standards are specified and included in design documents and that deviations from standards are controlled. Measures shall be established for the selection and review for suitability of application of materials, parts, equipment, and processes that are essential to the functions of the structures, systems, and components which are important to safety.

(b) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures for the identification and control of design interfaces and for coordination among participating design organizations. These measures shall include the establishment of written procedures among participating design organizations for the review, approval, release, distribution, and revision of documents involving design interfaces. The design control measures shall provide for verifying or checking the adequacy of design, by methods such as design reviews, alternate or simplified calculational methods, or by a suitable testing program. For the verifying or checking process, the licensee and certificate holder shall designate individuals or groups other than those who were responsible for the original design, but who may be from the same

organization. Where a test program is used to verify the adequacy of a specific design feature in lieu of other verifying or checking processes, the licensee and certificate holder shall include suitable qualification testing of a prototype or sample unit under the most adverse design conditions. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall apply design control measures to items such as the following: criticality physics, radiation, shielding, stress, thermal, hydraulic, and accident analyses; compatibility of materials; accessibility for in-service inspection, maintenance, and repair; features to facilitate decontamination; and delineation of acceptance criteria for inspections and tests.

(c) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall subject design changes, including field changes, to design control measures commensurate with those applied to the original design. Changes in the conditions specified in the license or CoC require prior NRC approval.

12. Section 72.148 is revised to read as follows:

§ 72.148 Procurement document control.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to assure that applicable regulatory requirements, design bases, and other requirements which are necessary to assure adequate quality are included or referenced in the documents for procurement of material, equipment, and services. To the extent necessary, the licensee, applicant for a license, certificate holder, and applicant for a CoC, shall require contractors or subcontractors to provide a quality assurance program consistent with the applicable provisions of this subpart.

13. Section 72.150 is revised to read as follows:

§ 72.150 Instructions, procedures, and drawings.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall prescribe activities affecting quality by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall require that these instructions, procedures, and drawings be followed. The instructions, procedures, and drawings shall include appropriate quantitative or qualitative acceptance criteria for determining that important activities have been satisfactorily accomplished.

14. Section 72.152 is revised to read as follows:

§ 72.152 Document control.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to control the issuance of documents such as instructions, procedures, and drawings, including changes, which prescribe all activities affecting quality. These measures shall assure that documents, including changes, are reviewed for adequacy, approved for release by authorized personnel, and distributed and used at the location where the prescribed activity is performed. These measures shall ensure that changes to documents are reviewed and approved.

15. Section 72.154 is revised to read as follows:

§ 72.154 Control of purchased material, equipment, and services.

(a) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to ensure that purchased material, equipment and services, whether purchased directly or through contractors and subcontractors, conform to the procurement documents. These measures shall include provisions, as appropriate, for source evaluation and selection, objective evidence of quality furnished by the contractor or subcontractor, inspection at the contractor or subcontractor source, and examination of products upon delivery.

(b) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall have available documentary evidence that material and equipment conform to the procurement specifications prior to installation or use of the material and equipment. The licensee and certificate holder shall retain or have available this documentary evidence for the life of ISFSI, MRS, or spent fuel storage cask. The licensee and certificate holder shall ensure that the evidence is sufficient to identify the specific requirements met by the purchased material and equipment.

(c) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors or a designee of either shall assess the effectiveness of the control of quality by contractors and subcontractors at intervals consistent with the importance, complexity, and quantity of the product or services.

16. Section 72.156 is revised to read as follows:

§ 72.156 Identification and control of materials, parts, and components.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures for the identification and control of materials, parts, and components. These measures shall ensure that identification of the item is maintained by heat number, part number, serial number, or other appropriate means, either on the item or on records traceable to the item as required, throughout fabrication, installation, and use of the item. These identification and control measures shall be designed to prevent the use of incorrect or defective materials, parts, and components.

17. Section 72.158 is revised to read as follows:

§ 72.158 Control of special processes.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to ensure that special processes, including welding, heat treating, and nondestructive testing, are controlled and accomplished by qualified personnel using qualified procedures in accordance with applicable codes, standards, specifications, criteria, and other special requirements.

18. Section 72.160 is revised to read as follows:

§ 72.160 Licensee and certificate holder inspection.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish and execute a program for inspection of activities affecting quality by or for the organization performing the activity to verify conformance with the documented instructions, procedures, and drawings for accomplishing the activity. The inspection shall be performed by individuals other than those who performed the activity being inspected. Examinations, measurements, or tests of material or products processed shall be performed for each work operation where necessary to assure quality. If direct inspection of processed material or products cannot be carried out, indirect control by monitoring processing methods, equipment, and personnel shall be provided. Both inspection and process monitoring shall be provided when quality control is inadequate without both. If mandatory inspection hold points, which require

witnessing or inspecting by the licensee's or certificate holder's designated representative and beyond which work should not proceed without the consent of its designated representative, are required, the specific hold points shall be indicated in appropriate documents.

19. Section 72.162 is revised to read as follows:

§ 72.162 Test control.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish a test program to ensure that all testing required to demonstrate that the structures, systems, and components will perform satisfactorily in service is identified and performed in accordance with written test procedures that incorporate the requirements of this part and the requirements and acceptance limits contained in the ISFSI, MRS, or spent fuel storage cask license or CoC. The test procedures shall include provisions for assuring that all prerequisites for the given test are met, that adequate test instrumentation is available and used, and that the test is performed under suitable environmental conditions. The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall document and evaluate the test results to ensure that test requirements have been satisfied.

20. Section 72.164 is revised to read as follows:

§ 72.164 Control of measuring and test equipment.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to ensure that tools, gauges, instruments, and other measuring and testing devices used in activities affecting quality are properly controlled, calibrated, and adjusted at specified periods to maintain accuracy within necessary limits.

21. Section 72.166 is revised to read as follows:

§ 72.166 Handling, storage, and shipping control.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to control, in accordance with work and inspection instructions, the handling, storage, shipping, cleaning, and preservation of materials and equipment to prevent damage or deterioration. When necessary for particular products, special protective environments, such as inert gas atmosphere, and specific moisture content and temperature levels shall be specified and provided.

22. Section 72.168 is revised to read as follows:

§ 72.168 Inspection, test, and operating status.

(a) The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to indicate, by the use of markings such as stamps, tags, labels, routing cards, or other suitable means, the status of inspections and tests performed upon individual items of the ISFSI, MRS, or spent fuel storage cask. These measures shall provide for the identification of items which have satisfactorily passed required inspections and tests where necessary to preclude inadvertent bypassing of the inspections and tests.

(b) The licensee shall establish measures to identify the operating status of structures, systems, and components of the ISFSI or MRS, such as tagging valves and switches, to prevent inadvertent operation.

23. Section 72.170 is revised to read as follows:

§ 72.170 Nonconforming materials, parts, or components.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to control materials, parts, or components that do not conform to their requirements in order to prevent their inadvertent use or installation. These measures shall include, as appropriate, procedures for identification, documentation, segregation, disposition, and notification to affected organizations. Nonconforming items shall be reviewed and accepted, rejected, repaired, or reworked in accordance with documented procedures.

24. Section 72.172 is revised to read as follows:

§ 72.172 Corrective action.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall establish measures to ensure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified and corrected. In the case of a significant condition identified as adverse to quality, the measures shall ensure that the cause of the condition is determined and corrective action is taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken shall be documented and reported to appropriate levels of management.

25. Section 72.174 is revised to read as follows:

§ 72.174 Quality assurance records.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall maintain sufficient records to furnish evidence of activities affecting quality. The records shall include the following: design records, records of use and the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses. The records shall include closely related data such as qualifications of personnel, procedures, and equipment. Inspection and test records shall, at a minimum, identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any noted deficiencies. Records shall be identifiable and retrievable. Records pertaining to the design, fabrication, erection, testing, maintenance, and use of structures, systems, and components important to safety shall be maintained by or under the control of the licensee or certificate holder until the Commission terminates the license or CoC.

26. Section 72.176 is revised to read as follows:

§ 72.176 Audits.

The licensee, applicant for a license, certificate holder, applicant for a CoC, and their contractors and subcontractors shall carry out a comprehensive system of planned and periodic audits to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The audits shall be performed in accordance with written procedures or checklists by appropriately trained personnel not having direct responsibilities in the areas being audited. Audited results shall be documented and reviewed by management having responsibility in the area audited. Follow-up action, including re-audit of deficient areas, shall be taken where indicated.

27. Section 72.232 is revised to read as follows:

§ 72.232 Inspection and tests.

(a) The certificate holder, applicant for a CoC, and their contractors and subcontractors shall permit, and make provisions for, the Commission to inspect the premises and facilities at

which a spent fuel storage cask is designed, fabricated, and tested.

(b) The certificate holder, applicant for a CoC, and their contractors and subcontractors shall make available to the Commission for inspection, upon reasonable notice, records kept by any of them pertaining to the design, fabrication, and testing of spent fuel storage casks.

(c) The certificate holder, applicant for a CoC, and their contractors and subcontractors shall perform, and make provisions that permit the Commission to perform, tests that the Commission deems necessary or appropriate for the administration of the regulations in this part.

(d) The certificate holder and applicant for a CoC shall submit a notification under § 72.4 at least 45 days prior to starting fabrication of the first spent fuel storage cask under a Certificate of Compliance.

28. Section 72.234 is revised to read as follows:

§ 72.234 Conditions of approval.

(a) The certificate holder and applicant for a CoC shall ensure that the design, fabrication, testing, and maintenance of a spent fuel storage cask comply with the requirements in § 72.236.

(b) The certificate holder and applicant for a CoC shall ensure that the design, fabrication, testing, and maintenance of spent fuel storage casks be conducted under a quality assurance program that meets the requirements of subpart G of this part.

(c) The certificate holder and applicant for a CoC shall ensure that the fabrication of casks under a CoC does not begin prior to receipt of the CoC for the spent fuel storage cask.

(d)(1) The certificate holder shall ensure that a record is established and maintained for each cask fabricated under the CoC.

(2) This record shall include:

(i) The NRC CoC number;

(ii) The cask model number;

(iii) The cask identification number;

(iv) Date fabrication was started;

(v) Date fabrication was completed;

(vi) Certification that the cask was designed, fabricated, tested, and repaired in accordance with a quality assurance program accepted by NRC;

(vii) Certification that inspections required by § 72.236(j) were performed and found satisfactory; and

(viii) The name and address of the general licensee using the cask.

(3) The certificate holder shall supply the original of this record to the general licensee using the cask. A current copy of a composite record of all casks manufactured under a CoC, showing the information in paragraph (d)(2) of this section, shall be initiated and maintained by the certificate holder for each model cask. If the certificate holder permanently ceases production of casks under a CoC, the certificate holder shall send this composite record to the Commission using instructions in § 72.4.

(e) The certificate holder and the general licensee using the cask shall ensure that the composite record required by paragraph (d) of this section is available to the Commission for inspection.

(f) The certificate holder shall ensure that written procedures and appropriate tests are established prior to use of the casks. A copy of these procedures and tests shall be provided to each general licensee using the cask.

29. Section 72.236 is revised to read as follows:

§ 72.236 Specific requirements for spent fuel storage cask approval.

The certificate holder shall ensure that the requirements of this section are met. An applicant for a CoC shall ensure that the requirements of this section are met, except for paragraphs (j) and (k)

(a) Specifications shall be provided for the spent fuel to be stored in the cask, such as, but not limited to, type of spent fuel (i.e., BWR, PWR, both), maximum allowable enrichment of the fuel prior to any irradiation, burn-up (i.e., megawatt-days/MTU), minimum acceptable cooling time of the spent fuel prior to storage in the cask, maximum heat designed to be dissipated, maximum spent fuel loading limit, condition of the spent fuel (i.e., intact assembly or consolidated fuel rods), the inerting atmosphere requirements.

(b) Design bases and design criteria shall be provided for structures, systems, and components important to safety.

(c) The cask shall be designed and fabricated so that the spent fuel is maintained in a subcritical condition under credible conditions.

(d) Radiation shielding and confinement features shall be provided sufficient to meet the requirements in §§ 72.104 and 72.106.

(e) The cask shall be designed to provide redundant sealing of confinement systems.

(f) The cask shall be designed to provide adequate heat removal capacity without active cooling systems.

(g) The cask shall be designed to store the spent fuel safely for a minimum of 20 years and permit maintenance as required.

(h) The cask shall be compatible with wet or dry spent fuel loading and unloading facilities.

(i) The cask shall be designed to facilitate decontamination to the extent practicable.

(j) The cask shall be inspected to ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects that could significantly reduce its confinement effectiveness.

(k) The cask shall be conspicuously and durably marked with —

(1) A model number;

(2) A unique identification number; and

(3) An empty weight.

(l) The cask and its systems important to safety shall be evaluated, by appropriate tests or by other means acceptable to the Commission, to demonstrate that they will reasonably maintain confinement of radioactive material under normal, off-normal, and credible accident conditions.

(m) To the extent practicable in the design of storage casks, consideration should be given to compatibility with removal of the stored spent fuel from a reactor site, transportation, and ultimate disposition by the Department of Energy.

30. Section 72.240 is revised to read as follows:

§ 72.240 Conditions for spent fuel storage cask reapproval.

(a) The certificate holder, a general licensee using a spent fuel storage cask, or the representative of a general licensee using a spent fuel storage cask shall apply for reapproval of the design of a spent fuel storage cask.

(b) The application for reapproval of the design of a spent fuel storage cask shall be submitted not less than 30 days prior to the expiration date of the CoC. When the applicant has submitted a timely application for reapproval, the existing CoC will not expire until the application for reapproval has been finally determined by the Commission. The application shall be accompanied by a safety analysis report (SAR). The new SAR may reference the SAR originally submitted for the approved spent fuel storage cask design.

(c) The design of a spent fuel storage cask will be reapproved if the conditions in § 72.238 are met, and the application includes a demonstration that the storage of spent fuel has not, in fact, significantly adversely affected structures, systems, and components important to safety.

31. Section 72.242 is added to read as follows:

§ 72.242 Recordkeeping and reports.

(a) Each certificate holder or applicant shall maintain any records and produce any reports that may be required by the conditions of the CoC or by the rules, regulations, and orders of the Commission in effectuating the purposes of the Act.

(b) Records that are required by the regulations in this part or by conditions of the CoC shall be maintained for the period specified by the appropriate regulation or the CoC conditions. If a retention period is not specified, the records shall be maintained until the Commission terminates the CoC.

(c) Any record that shall be maintained under this part may be either the original or a reproduced copy by any state of the art method provided that any reproduced copy is duly authenticated by authorized personnel and is capable of producing a clear and legible copy after storage for the period specified by Commission regulations.

(d) Each certificate holder shall submit a written report to the NRC within 30 days of discovery of a design or fabrication deficiency, for any spent fuel storage cask which has been delivered to a licensee, when the design or fabrication deficiency affects the ability of structures, systems, and components important to safety to perform their function. The written report shall be sent to the NRC in accordance with the requirements of § 72.4. The report shall include the following:

(1) A brief abstract describing the deficiency, including all component or system failures that contributed to the deficiency and corrective action taken or planned to prevent recurrence;

(2) A clear, specific, narrative description of what occurred so that knowledgeable readers familiar with the design of the spent fuel storage cask, but not familiar with the details of a particular cask, can understand the deficiency. The narrative description shall include the following specific information as appropriate for the particular event:

(i) Dates and approximate times of discovery;

(ii) The cause of each component or system failure, if known;

(iii) The failure mode, mechanism, and effect of each failed component, if known;

(iv) A list of systems or secondary functions that were also affected for failures of components with multiple functions;

(v) The method of discovery of each component or system failure;

(vi) The manufacturer and model number (or other identification) of each component that failed during the event;

(vii) The model and serial numbers of the affected casks;

(viii) The licensees that have affected casks;

(3) An assessment of the safety consequences and implications of the deficiency. This assessment shall include the availability of other systems or components that could have performed the same function as the components and systems that were affected;

(4) A description of any corrective actions planned as a result of the deficiency, including those to reduce the probability of similar occurrences in the future;

(5) Reference to any previous similar deficiencies at the same facility that are known to the certificate holder; and

(6) The name and telephone number of a person within the certificate holder's organization who is knowledgeable about the deficiency and can provide additional information.

Dated at Rockville, Maryland, this 16th day of July, 1998.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 98–19556 Filed 7–22–98; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–159–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR72–212A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR72–212A series airplanes. This proposal would require installation of bushings on the lower attachment fittings of the flap support beam. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent rupture of the lower attachment fittings of the flap support beam due to fatigue, and consequent damage to the flaps; these conditions could result in reduced controllability of the airplane.

DATES: Comments must be received by August 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–159–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–159–AD." The

postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–159–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Aerospatiale Model ATR72–212A series airplanes. The DGAC advises that fatigue and damage-tolerance analysis has shown that the lower attachment fittings of the flap support beam can rupture due to fatigue. Such rupture of the fittings could result in damage to the flaps. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

The manufacturer has issued Avions de Transport Regional Service Bulletin ATR72–57–1020, dated March 9, 1998, which describes procedures for installation of bushings on the lower attachment fittings of the flap support beam. Accomplishment of the action specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 98–072–036(B), dated February 11, 1998, and Erratum, dated February 25, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

This airplane 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 4 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 25 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,000, or $1,500 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Aerospatiale: Docket 98–NM–159–AD.

Applicability: Model ATR72–212A series airplanes, on which Aerospatiale Modification 4831 has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent rupture of the lower attachment fittings of the flap support beam due to fatigue, and consequent damage to the flaps, accomplish the following:

(a) Prior to the accumulation of 24,000 total flight cycles, or within 500 flight cycles after the effective date of this AD, whichever occurs later, install bushings on the lower attachment fittings of the flap support beam in accordance with Avions de Transport Regional Service Bulletin ATR72–57–1020, dated March 9, 1998.

(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.

Note 3: The subject of this AD is addressed in French airworthiness directive 98–072–036(B), dated February 11, 1998, and Erratum, dated February 25, 1998.

Issued in Renton, Washington, on July 17, 1998.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19623 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–42–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all Airbus Industrie Model A320 series airplanes, that currently requires a revision to the Airplane Flight Manual (AFM) to prohibit automatic landings in configuration 3 (CONF 3). This action would limit the applicability of the existing AD, and add a new revision to the AFM to indicate that automatic landings in CONF 3 are prohibited and to specify an increased minimum runway visual range for airplanes on which certain modifications have not been accomplished. This action also would require eventual replacement of the existing spoiler elevator computers with improved parts, and insertion of new pages into the AFM that correct landing distances required for automatic landings in CONF 3. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent pitch-up of the airplane due to activation of the spoilers during an automatic landing, which, if not corrected, could result in tail strikes and structural damage to the airplane.

DATES: Comments must be received by August 24, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–42–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–42–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–42–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On August 26, 1992, the FAA issued AD 92–19–13, amendment 39–8371 (57 FR 40601, September 4, 1992), applicable to all Airbus Industrie Model A320 series airplanes. That AD requires a revision to the FAA-approved Airbus A320 Airplane Flight Manual (AFM) to prohibit automatic landings in configuration 3 (CONF 3). That action was prompted by a report that, during an automatic landing in CONF 3, a pitch-up due to activation of the spoilers could result in an excessive attitude, if not immediately counteracted by the flightcrew. The requirements of that AD are intended to prevent pitch-up of the airplane due to activation of the spoilers during an automatic landing, which, if not corrected, could result in tail strikes and structural damage to the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 92–19–13, the manufacturer has developed a modification that replaces the existing spoiler elevator computers (SEC's) with new improved parts. Installation of the new improved SEC's on Airbus Industrie Model A320 series airplanes will reduce the deflection rate of the ground spoilers during an automatic landing, which will reduce the tendency of the airplane to pitch up during landing. Once accomplished, the modification eliminates the need to prohibit automatic landings in CONF 3.

Since the issuance of AD 92–19–13, the manufacturer also has developed another revision to the AFM that corrects landing distances required for automatic landings in CONF 3.

Explanation of Relevant Service Information

The manufacturer has issued Airbus A319/320/321 AFM Temporary Revision (TR) 9.99.99/02, Issue 02, dated April 8, 1997, which indicates that automatic landings in CONF 3 are prohibited, and which specifies an increased minimum runway visual range for all airplanes on which Airbus Industrie Modification 20126 (installation of a head up display) or Modification 21055 (installation of a paravisual indicator) has not been accomplished. The TR also advises the flightcrew that, during an automatic landing in a configuration other than CONF 3, the flightcrew should monitor the pitch attitude and be prepared to counteract any pitch-up that occurs immediately after touchdown.

Airbus Industrie also has issued Service Bulletin A320–27–1073, dated January 20, 1995, and Service Bulletin A320–27–1081, Revision 2, dated September 6, 1995, which describe procedures for removing the existing SEC's from two positions in the aft electronics rack and one position in the forward electronics rack, and installing new, improved SEC's in the same positions in the aft and forward electronics racks. This modification will reduce the deflection rate of the ground spoilers during an automatic landing, and consequently will reduce the tendency of the airplane to pitch up during landing.

Associated with the modifications specified by these service bulletins, Airbus Industrie also has issued AFM Section 5.06.00, page 06, dated February 10, 1996, and page 6A, dated January 20, 1997. This AFM section identifies corrections to landing distances required for automatic landings performed in CONF 3. Operators should note that Section 5.06.00, pages 06 and 6A, changes the measurement units of the landing distances required for automatic landings from meters to feet. Operators should ensure that the units of measurement used in Section 5.06.00, pages 06 and 6A, are consistent with the units used in their operations.

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, classified TR 9.99.99/02, Issue 02, as mandatory and issued French airworthiness directive 93–203–049(B)R3, dated July 2, 1997, in order to assure the continued airworthiness of these airplanes in France. The French airworthiness directive also provides for the replacement of the SEC's with improved parts, and insertion of AFM Section 5.06.00, pages 06 and 6A, into the AFM as optional actions, which, if accomplished, would provide for removal of TR 9.99.99/02 from the AFM.

FAA's Conclusions

This airplane 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.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 92–19–13 to require accomplishment of the actions specified in the service bulletins and AFM revisions described previously, except as discussed below. Accomplishment of the replacement of the SEC's with new, improved parts and insertion of AFM Section 5.06.00, pages 06 and 6A, into the AFM terminates the need for TR 9.99.99/02 in the AFM.

This proposed action also would limit the applicability of the AD to only those airplanes on which Airbus Industrie Modification 23132, 24348, or 24511 has not been accomplished.

Differences Between Proposed Rule and Foreign AD

The proposed AD would differ from the parallel French airworthiness directive in that it would mandate replacement of the existing SEC's with new, improved parts. The French airworthiness directive provides for that action as optional.

Mandating the terminating action is based on the FAA's determination that, in this case, long-term continued operational safety would be better assured by a modification to remove the source of the problem, rather than by revising flight procedures. The source of the unsafe condition (pitch-up of the airplane due to activation of the spoilers during an automatic landing) is in the design of the SEC's installed on the airplane, in that the SEC's fail to operate in a safe manner when the flightcrew selects CONF 3 during landing. In this particular case, there is no way to physically prevent the selection of CONF 3 during landing, unlike in other situations in which the inadvertent positioning of a switch or lever can be remedied by application of a limiter or guard to prevent or restrict operation of that switch or lever.

While revising flight procedures ensures that the flightcrew is informed that an unsafe condition may exist if CONF 3 is selected during landing, it does not remove the source of that unsafe condition. Human factors (e.g., variations in flightcrew training and familiarity with the airplane, flightcrew awareness in the presence of other hazards, flightcrew fatigue) may allow inadvertent selection of CONF 3 during landing and result in the unsafe condition. Thus, revisions to flight procedures are not considered adequate to provide the degree of safety assurance necessary for the transport airplane fleet. Consideration of these factors have led the FAA to mandate replacement of the existing SEC's with new, improved parts in order to eliminate the unsafe condition associated with an automatic landing in CONF 3.

Cost Impact

There are approximately 93 airplanes of U.S. registry that would be affected by this proposed AD.

The incorporation of the temporary revision into the AFM that is currently required by AD 92–19–13, and retained in this proposed AD, takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $5,580, or $60 per airplane.

The incorporation of the new temporary revision into the AFM that is proposed in this AD would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $5,580, or $60 per airplane.

The replacement of the SEC's that is proposed in this AD action would take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $16,740, or $180 per airplane.

The incorporation of AFM Section 5.06.00, pages 06 and 6A, into the AFM that is proposed in this AD action would take approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this proposed requirement of this AD on U.S. operators is estimated to be $5,580, or $60 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and

the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–8371 (57 FR 40601, September 4, 1992), and by adding a new airworthiness directive (AD), to read as follows:

Airbus Industrie: Docket 97–NM–42–AD. Supersedes AD 92–19–13, Amendment 39–8371.

Applicability: Model A320 series airplanes on which Airbus Industrie Modification 23132, 24348, or 24511 has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent pitch-up of the airplane due to activation of the spoilers during an automatic landing, which, if not corrected, could result in tail strikes and structural damage to the airplane, accomplish the following:

(a) Within 60 days after October 9, 1992 (the effective date of AD 92–19–13, amendment 39–8371), revise the Limitations Section of the FAA-approved Airplane Flight Manual (AFM) to include the following statement. This may be accomplished by inserting a copy of this AD into the AFM.

"Use of automatic landing in configuration 3 (CONF 3) is prohibited."

(b) Within 30 days after the effective date of this AD, revise the FAA-approved Airbus A320 AFM by inserting Airbus A319/320/321 AFM Temporary Revision 9.99.99/02, Issue 02, dated April 8, 1997, into the AFM. After revising the AFM, the AFM revision required by paragraph (a) of this AD may be removed from the AFM.

(c) Within 18 months after the effective date of this AD, accomplish the actions specified in paragraphs (c)(1) and (c)(2) of this AD. After the actions specified by paragraph (c) of this AD have been accomplished, the AFM revision required by paragraph (b) of this AD (Airbus A320 AFM Temporary Revision 9.99.99/02, Issue 02, dated April 8, 1997), may be removed from the AFM.

(1) Replace the existing spoiler elevator computers (SEC's) in the aft and forward electronics racks with new, improved SEC's, in accordance with Airbus Industrie Service Bulletin A320–27–1081, Revision 2, dated September 6, 1995; or A320–27–1073, dated January 20, 1995; as applicable.

(2) After the accomplishment of the actions specified by paragraph (c)(1) of this AD, prior to further flight, revise Section 5.06.00 of the Airbus A320 AFM by inserting Section 5.06.00, page 06, dated February 10, 1996, and page 6A, dated January 20, 1997.

Note 2: Operators should ensure that the units in which the distance measurements are listed in AFM Section 5.06.00, pages 06 and 6A, are consistent with the units of measurement that the operators use in their operations.

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 92–19–13, amendment 39–8371, are approved as alternative methods of compliance with this AD.

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

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

Note 4: The subject of this AD is addressed in French airworthiness directive 93–203–049(B)R3, dated July 2, 1997.

Issued in Renton, Washington, on July 17, 1998.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–19624 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–U

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Parts 1190 and 1191

Accessibility Guidelines for Outdoor Developed Areas; Meeting of Regulatory Negotiation Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Regulatory negotiation committee meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas covered by the Americans With Disabilities Act and the Architectural Barriers Act. This document announces the dates, times, and location of the next meeting of the committee, which is open to the public.

DATES: The committee will meet on: Tuesday, August 11, 1998, 8:30 a.m. to 5:00 p.m.; Wednesday, August 12, 1998, 8:30 a.m. to 5:00 p.m.; Thursday, August 13, 1998, 8:30 a.m. to 5:00 p.m.; and Friday, August 14, 1998, 8:30 a.m. to 3:00 p.m.

ADDRESSES: The committee will meet at the Loma Linda Community Center, 1700 Yale, SE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Peggy Greenwell, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC, 20004–1111. Telephone number (202) 272–5434

extension 34 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disc) upon request. This document is also available on the Board's web site (http://www.access-board.gov/rules/outdoor.htm).

SUPPLEMENTARY INFORMATION: In June 1997, the Access Board established a regulatory negotiation committee to develop a proposed rule on accessibility guidelines for newly constructed and altered outdoor developed areas, including trails, camping and picnic areas, and beaches, covered by the Americans With Disabilities Act and the Architectural Barriers Act. (62 FR 30546, June 4, 1997). The committee will hold its next meeting on the dates and at the location announced above. The meeting is open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Peggy Greenwell by August 3, 1998, by calling (202) 272–5434 extension 34 (voice) or (202) 272–5449 (TTY).

Lawrence W. Roffee,

Executive Director.

[FR Doc. 98–19642 Filed 7–22–98; 8:45 am]

BILLING CODE 8150–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[AD–FRL–6112–6]

National Emission Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes to correct and clarify regulatory text of the "National Emission Standard for Hazardous Air Pollutants for Industrial Process Cooling Towers," which was issued as a final rule on September 8, 1994. This action proposes to allow sources the alternative of demonstrating compliance with the standard through recordkeeping in lieu of a water sample analysis. The standard itself would not be changed. Because the proposed amendments to the rule are minor, the Agency does not anticipate receiving adverse comments. Consequently the revisions are also being issued as a direct final rule in the final rules section of this **Federal Register.** If no adverse comments are timely received, no further action will be taken with respect to this proposal and the direct final rule will become final on the date provided in that action.

DATES: *Comments.* Comments must be received on or before September 21, 1998, unless a hearing is requested by August 3, 1998. If a hearing is held, written comments must be received by October 6, 1998.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than August 3 , 1998. If a hearing is held, it will take place on August 7, 1998, beginning at 10:00 a.m.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate, if possible) to: Air and Radiation Docket and Information Center (6102), Attention Docket Number A–91–65 (see docket section below), Room M–1500, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. EPA also requests that a separate copy also be sent to the contact person listed below.

Public Hearing. If a public hearing is held, it will be held at the EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Mr. Phil Mulrine, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone (919) 541–5289.

Docket. Docket No. A–91–65, containing the supporting information for the original standard and this action, is available for public inspection and copying between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket Section, Waterside Mall, room 1500, 1st Floor, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Phil Mulrine, Metals Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711; telephone (919) 541–5289.

SUPPLEMENTARY INFORMATION: Unless a hearing is requested (in which case, the comment period is 75 days from date of publication), if no significant adverse comments are received by September 21, 1998 no further activity is contemplated in relation to this proposed rule and the direct final rule in the final rules section of this **Federal Register** will automatically go into effect on October 21, 1998. If significant adverse comments are timely received, the direct final rule will be withdrawn and all public comment received will be addressed in a subsequent final rule. Because the EPA will not institute a second comment period on this proposed rule, any parties interested in commenting should do so during this comment period. If no timely adverse comments are received the direct final rule will become final October 21, 1998 and no further action is contemplated on the parallel proposal published today.

On September 8, 1994 (59 FR 46339), the Environmental Protection Agency (EPA) promulgated in the **Federal Register** national emission standards for hazardous air pollutants for industrial process cooling towers. These standards were promulgated as subpart Q in 40 CFR part 63. This document contains amendments to clarify the applicability of the final standard.

I. Regulated Entities

Entities potentially regulated by this action include:

Category	Examples of regulated entities
Industry	Industrial Process Cooling Towers.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be interested in the revisions to the regulation contained in this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. To determine whether your facility is affected by these revisions, you should carefully examine the language of section 63.404 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Description of the Changes

Section 63.404 is being revised to clarify that compliance with the standard can be demonstrated either by cooling water sampling analysis or by recordkeeping which shows that the owner or operator has switched to a non-chromium water treatment method.

In addition § 63.404(b) is revised to clarify that a cooling water sample showing residual hexavalent chromium of 0.5 parts per million by weight or less shall be considered compliance with the standard.

For the detailed rationale for these proposed changes, see the information provided in the direct final rule in the final rules section of this **Federal Register.**

III. Administrative

A. Paperwork Reduction Act

The information collection requirements in this rule will be submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1876.01) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460, by e-mail at farmer.sandy@epamail.epa.gov, or by calling (202) 260–2740. A copy may also be downloaded off the internet at http://www.epa.gov/icr. The information requirements are not effective until OMB approves them.

The information collected will be used as an alternative means of compliance under § 63.404. Owners of IPCT's are required to maintain a cooling water concentration of residual hexavalent chromium equal to or less than 0.5 parts per million. The owner of IPCT's can choose to demonstrate compliance by maintaining records of chemical treatment purchases instead of measuring the cooling water hexavalent chromium concentration.

The recordkeeping burden is estimated to be 6 hours annually. The rule has no reporting requirements so there is no burden associated with reporting. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW, Washington, DC 20503, marked "Attention: Desk Officer for EPA." Comments are requested within August 24, 1998. Include the ICR number in any correspondence.

B. Executive Order 12866

Under Executive Order 12866, the EPA must determine whether the proposed regulatory action is "significant" and, therefore, subject to OMB review and the requirements of the Executive Order. The Order defines "significant" regulatory action as one that is likely to lead to a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety in State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

The Industrial Process Cooling Towers rule promulgated on September 8, 1994 was considered "significant" under Executive Order 12866 and a regulatory impact analysis was prepared. The amendments proposed today do not add any additional control requirements to the rule, but rather would clarify the rule and add an alternative means of compliance. It has been determined that these amendments are not a "significant regulatory action" under terms of Executive Order 12866 and, therefore, are not subject to review by the Office of Management and Budget.

C. Regulatory Flexibility

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment requirements unless the agency certified that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities. The proposed changes to the rule merely clarify existing requirements, and increase flexibility by allowing an alternative means of compliance, and therefore do not create any additional burden for any of the regulated entities. Therefore, I certify that this proposed action will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Act

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

The EPA has determined that the action proposed today does not include a Federal mandate that will result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action.

E. Protection of Children from Environmental Health Risks and Safety Risk Under Executive Order 13045

The Executive Order 13045 applies to any rule that (1) OMB determines is "economically significant" as defined under Executive Order 12866, and (2) EPA determines the environmental health or safety risk addressed by the rule has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety aspects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The proposed rule is not subject to Executive Order 13045, entitled Protection of Children from

Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

List of Subjects in 40 CFR Part 63

Environmental Protection, Air pollution control, Hazardous substances, Industrial process cooling towers, Reporting and recordkeeping requirements.

Dated: June 12, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–19406 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6128–3]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the McColl site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 9 announces the intent to delete the McColl Site ("the site") from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA and the State of California Department of Toxic Substances Control (DTSC) have determined that the remedial action for the site has been successfully executed.

DATES: Comments on this site may be submitted to EPA on or before August 24, 1998.

ADDRESSES: Comments may be mailed to: Keith Takata, Director, Superfund Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, Mailstop SFD, San Francisco, CA 94105.

Comprehensive information on this site is available through the Region 9 public docket, which is available for viewing by appointment only. Appointments for copies of the background information from the Regional public docket should be directed to the EPA Regional 9 docket office at the following address: SUPERFUND Records Center, U.S. Environmental Protection Agency, Region 9, 95 Hawthorne Street, Suite 403S, San Francisco, CA 94105–3901 (415) 536–2000.

The deletion docket is also available for viewing at the following location: Fullerton Public Library, Local History Room, 353 W. Commonwealth Avenue, Fullerton, CA 92633, (714) 738–6333.

FOR FURTHER INFORMATION CONTACT: Patti Collins, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, Mailstop SFD–7–3, San Francisco, CA 94105, (415) 744–2229.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 9 announces its intent to delete the McColl site in Orange County, California, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of these sites. EPA and the California Department of Toxic Substances Control (DTSC) have determined that the remedial action for the site has been successfully executed.

EPA will accept comments on the proposal to delete this site for thirty (30) days after publication of this document in the **Federal Register.**

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures EPA is using for this action. Section IV discusses the McColl site and explains how the site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e)(1) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

Responsible parties or other parties have implemented all appropriate actions required; All appropriate responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and restricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. If at any time, new information becomes available which indicates a need for further action, EPA may initiate additional remedial actions. Whenever there is a significant release from a deleted site form the NPL, the site may be restored to the NPL without application of the Hazardous Ranking System.

In the case of this site, the selected remedy is protective of human health and the environment. The responsible parties are currently and will continue to perform operation and maintenance of the site, with the oversight of EPA. EPA will conduct the first five-year review of the final remedy in 2001, and will also perform future five-year reviews.

III. Deletion Procedures

The following procedures were used for the intended deletion of this site: (1) all appropriate response under CERCLA has been implemented and no further action by EPA is appropriate; (2) DTSC has concurred with the proposed deletion decision; (3) a document has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and (4) all relevant documents have been made available in the local site information repository.

Deletion of the site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in

section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final document in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the document. The Regional Office will make public notices and copies of the Responsiveness Summary available to local residents.

IV. Basis of Intended Site Deletion

The following site summary provides the Agency's rationale for the proposal to delete this site from the NPL.

A. Site Background and History

The twenty-two acre McColl site (the site) is located in Fullerton, Orange County, California, approximately 25 miles southeast of Los Angeles. Housing developments border the site to the east and south. Developed but open areas of a golf course and a regional park border the site to the west. An oil field occupies an open area to the north.

One parcel of the site is referred to as "The Ramparts" and the other the "Los Coyotes" area. The Ramparts area contains six sumps, referred to as sumps R–1 through R–6. The Los Coyotes area also contains six sumps, referred to as sumps L–1 through L–6. From 1942 through 1946, approximately 72,600 cubic yards of waste sludge was placed in the 12 Ramparts and Los Coyotes sumps. In an attempt to mitigate site odors during the 1950s and early 1960s, three sumps (R–1, R–2, and R–4) in the Ramparts area were covered with drilling mud. Additional arsenic-containing waste of an unknown date and origin was later placed in Ramparts sump R–1. Additional soil cover was placed over the sumps in the Ramparts area in September 1983. The Los Coyotes sumps were covered with natural fill materials during the construction of the Los Coyotes Country Club golf course in the late 1950s.

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601, et seq. (CERCLA), in response to the dangers of uncontrolled or abandoned hazardous waste sites. To implement CERCLA, the EPA promulgated on July 16, 1982 the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. Section 105(a)(8)(A) of CERCLA requires that the NCP include criteria for "determining priorities among releases or threatened releases throughout the United States for the purposes of taking remedial action and, to the extent practicable taking into account the potential urgency of such action." Section 105(a)(8)(B) of CERCLA requires those criteria be used to prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP and revised annually, is the National Priorities List (NPL). The Hazard Ranking System (HRS) which EPA promulgated as Appendix A of the NCP is the principal tool upon which the EPA relies to determine the priority sites for possible remedial actions under CERCLA. Based on the HRS, the McColl site was added to the NPL in September 1982. The basis for deletion of a site from the NPL is stated in the NCP (40 CFR 300.425(e)).

B. Waste Material in the Sumps

The waste material contained within the sumps occurs as distinct types of materials, segregated by depth. These types are considered distinct based on their physical characteristics. The largest portion of the waste consists of a hard organic waste material (char) that occurs mainly in the bottom layer of all sumps. In the middle of the sumps is the tar waste (soft material), however the location of the tar within the sumps is quite variable. The upper portion of the sumps is comprised of varying thickness of soil or a combination of soil and drilling mud. There are an estimated 100,000 cubic yards of waste and contaminated materials at the site. The waste has a pH of less than 2 and contains various organic compounds including benzene, toluene and xylene, inorganic chemicals including arsenic and chromium, and sulfur compounds including sulfur dioxide. The risk assessment identified sulfur dioxide, benzene, and arsenic as the primary chemicals of concern. Prior to implementation of the remedy, releases of the wastes through the soil cover and onto the surface of the ground had been regularly observed on the sump surfaces. No significant removal actions were taken at the site.

To fully study and undertake response activities, EPA divided the site into two operable units. The operable units were designated to address the sump areas (i.e., source areas) and the groundwater. Following a remedial investigation and feasibility study conducted by the McColl Site Group oil companies, EPA proposed in 1984 an excavation and redisposal remedy to address the source areas. The State of California was designated the lead agency for the site but was later enjoined by a state court from implementing the remedy. EPA undertook additional feasibility study work at the site, and, having assumed the lead in 1989, proposed a waste excavation and incineration remedy. Following public comment and field testing on the proposed incineration remedy, EPA reevaluated remedial alternatives. In August 1992, pursuant to section 117 of CERCLA, 42 U.S.C. 9617, EPA published its updated feasibility study, called the *Supplemental Reevaluation of Alternatives II*, and issued a proposed plan identifying soft-material solidification as the preferred remedy for the material in the sumps. This proposed plan also identified installation of a Resource Conservation and Recovery Act (RCRA) equivalent closure system as a contingency remedy in the event that soft-material solidification was determined not to be feasible. The requirements of the contingency remedy for the source area operable unit are embodied in the *Source ROD* executed on June 30, 1993. On September 28, 1995 EPA, following extensive performance testing of soft-material solidification, concluded that this technology was not feasible, and selected the contingency remedy of a RCRA equivalent closure.

C. Groundwater

From September 1993 to April 1996, the McColl Site Group oil companies, under EPA's oversight, undertook a Remedial Investigation and Feasibility Study ("RI/FS") for the groundwater operable unit, pursuant to CERCLA and the National Contingency Plan, 40 CFR part 300. Low levels of site-related contamination were detected in an isolated, intermittently present, perched, shallow groundwater zone. Due to the intermittent nature and low yield of this perched zone, it was concluded that it would not yield a reliable quantity of water to sustain a domestic water supply. Groundwater use in the area was investigated and it was found that a regional aquifer located at a depth 200 feet greater than the perched zone is used as drinking water source by the City of Fullerton. No site-related contaminants have been detected in the regional aquifer or in drinking water wells. EPA published notice of the completion of the *Feasibility Study Report, Groundwater*

Operable Unit and of the proposed plan for remedial action on February 15, 1996, and provided opportunity for public comment on the proposed remedial action. EPA selected infiltration controls with long-term monitoring of the groundwater as a preventive measure. The specific requirements are described in the *Groundwater ROD* executed on May 15, 1996.

D. Response Actions

The contingency remedy selected by EPA required that a RCRA equivalent closure be implemented. As defined in the Source OU and Groundwater OU ROD, the primary remedial objectives for the McColl site are: long-term isolation of the waste material; minimization of infiltration of rain water into the waste; control of any gases emitted from the wastes; control of surface water infiltration into the waste; and provision of adequate bearing capacity for the end use of the site.

To meet the remedial objectives, the design of cover system was based on RCRA-equivalency for a landfill closure cap, which includes, at a minimum, from bottom to top: a low hydraulic conductivity geomembrane/soil layer with a maximum hydraulic conductivity of 1×10^{-7} cm/sec; a drainage layer with a minimum hydraulic conductivity of 1×10^{-2}cm/sec; and a top vegetative/soil layer of a minimum 24 inches thickness graded to a slope between 3 and 5 percent.

As part of the waste containment system, a subsurface vertical slurry cut-off wall was designed to control lateral liquid and gas migration. A design criterion was established at a maximum saturated hydraulic conductivity of less than 1×10^{-7} cm/sec for the cut-off wall barrier. A gas collection and treatment system was also designed to collect and treat the gas from the contained waste sumps.

The remedial construction activities were initiated by the McColl Site Group of oil companies, in July 1996 and completed in November 1997. The construction activities included the construction of two separate slurry cutoff walls surrounding each group of sumps, at Los Coyotes and Ramparts. The RCRA-equivalent cover system was constructed over each of the two sump areas and is tied into the cutoff walls. The primary functions of the cover system are to control infiltration of surface water, collect any gas migrating from the sumps, and contain and restrain any vertical migration of mobile waste and waste by-products. The cover also serves as a barrier to mechanical or intrusion by animals or plants and provides a tensile-reinforced layer to withstand differential settlement and enhance bearing capacity. Within the cover system, perforated gas collection piping was installed and connected to two separate valve boxes that are connected to a gas treatment system. The gas treatment system is comprised of a blower that induces the flow of atmospheric air into the gas collection piping and reinforced sand layer immediately above the sump foundation. Air is swept across the sand layer with the collected gases into carbon adsorption vessels, treated. Then the clean air is vented to the atmosphere. The control the infiltration of surface water infiltration was implemented as part of the groundwater remedy, including: redirecting and managing of surface water coming on to and off of the site; grading of areas adjacent to the closure containment system to control water flow, and lining of onsite drainage channels with low permeability materials.

An additional feature of the McColl site remedy was restoration of the golf course. The restored golf course was constructed over the Los Coyotes and Upper Ramparts sumps. The Lower Ramparts was planted as open space outside the golf course area of play. The design and construction of the golf course included grading to control surface water drainage as specified in the Groundwater ROD.

During the remedy construction at the site, continuous, daily oversight was provided by the US Army Corps of Engineers (USACE) through an Interagency Agreement with EPA. USACE personnel closely monitored construction activities to insure compliance with the RODs, design plans, workplans, and construction Quality Control and Quality Assurance requirements.

EPA and the California Department of Toxic Substances Control conducted a final site inspection of the McColl site on November 13, 1997. EPA has determined that the responsible parties for both OUs, constructed the remedies in accordance with the approved remedial design plans and specifications and that the remedial actions had been successfully executed.

The remedy constructed at the McColl site is consistent with the objectives of the NCP and will provide protection to human health and the environment using an engineered waste containment system. Operations and maintenance for the remedy will be necessary, in perpetuity. It will include monitoring and maintenance of the cap and cut-off wall, site security, and routine site maintenance.

E. Operations and Maintenance

The Operations and Maintenance (O&M) activities consist of routine inspections, surveys, routine maintenance, monitoring, security and any necessary repairs. With the exception of operation and maintenance of the Gas Collection and Treatment System and groundwater monitoring, all long-term O&M activities at the site are and will continue to be performed by McAuley LCX Corporation, the owner of the restored golf course. The McColl Site Group of oil companies is and will continue to be responsible for the long-term O&M requirements associated with the Gas Collection and Treatment System and semi-annual groundwater monitoring. All O&M activities are being conducted with oversight from EPA.

Inspections are routinely undertaken to visually observe the components of the remediated site. Examples of components visually inspected include site fencing and signage, groundwater monitoring wells, gas collection system and vents, irrigation systems, drainage systems, and the surface of the caps and subsurface barrier walls. Surveys are conducted to monitor settlement within the cover system. These survey results will be used to determine the need for any repairs due to subsidence or other structural disturbances in the cover system.

Routine maintenance is performed on the landscaping to prevent erosion of the cover system, the reinforced earth structures, and site slopes. Routine maintenance is also performed on the Gas Collection Treatment System to maintain adequate carbon adsorption capacities and prevent condensation build-up, on the site drainage systems to prevent interruptions of surface water runoff control, and on the groundwater monitoring system to insure optimum performance of groundwater pumps.

As part of Operation and Maintenance requirements, a comprehensive long-term monitoring program has been established to verify continued compliance with the remedial action objectives. The Operations and Maintenance program consists of the following elements:

Remedial action objectives	Routine monitoring elements
Long-term isolation of waste materials	Cover System Inspections. Cover System Settlement Inspections. Reinforced Earth Structure Inspections. Monument Survey Records.
Minimization of infiltration of rain water into waste	Groundwater Monitoring. Cover System Inspections.
Control of any gases emitted from the waste	Gas Flow Indicator Monitoring. Gas Perimeter Probe Monitoring System and Testing. Carbon Adsorber Exhaust Monitoring. Carbon Changeout/Servicing.
Provision of adequate bearing capacity for the end use of the site	Routine Cover System Inspections. Surface Water Drainage System Inspections.

In addition to these requirments, the golf course maintenance staff performs daily inspections of the remediated site as part of the normal golf course operations.

Data generated from ongoing operations and maintenance activities, which include monument and settlement surveys, inspections of the cover containment system, operation of the gas collection and treatment system, and the surface water drainage controls indicate that the remedy is functioning as designed.

Under the Interim Groundwater Monitoring Program (IGMP), semi-annual groundwater monitoring is being conducted to evaluate the effectiveness of the infiltration controls constructed as part of the integrated source and groundwater remedy. Eleven groundwater wells are currently monitored in accordance with the requirements of Groundwater OU ROD. These monitoring requirements include: (1) water level measurements; (2) sampling and analysis of groundwater chemistry; (3) quality assurance review of analytical results; (4) review of chemical results; and (5) preparation of a semi-annual groundwater monitoring report for EPA review. The IGMP will continue for a period of five years after remedy construction completion. Following this 5-year period, the IGMP will be reviewed and a Final Groundwater Monitoring Program will be established.

F. Five-Year Review

Section 121(c) of CERCLA requires that EPA review, no less often than every five years, any remedial action selected that results in any hazardous substances, pollutants, or contaminants remaining at the site. Five-year reviews will be conducted for each OU pursuant to OSWER Directive 9355.7–02, *Structure and Components of Five-Year Reviews* to document the effectiveness of the controls. The first five-year review for the site is scheduled for July 2001.

G. Community Involvement

The site initially was brought to the attention of the regulatory agencies as a result of odor and health complaints received from residents beginning in July 1978. Community concern increased gradually through 1980. Due to the increasing community concerns, DTSC organized a public hearing in the fall of 1980. Peter Weiner, the Governor's special assistant on Toxic Substances Control, chaired the hearing and a panel of state agency representatives also participated.

Individual members of the community continued to be involved in discussions and decisions related to the site through 1984, when EPA and DTSC announced that the site would be remediated using the excavation and redisposal alternative. Community comments received at the first public hearing indicated strong community support for this decision. Following the state court injunction blocking the state from implementing the remedy, some community members expressed increasing frustration at delays in the clean-up process. This frustration led to the formation of the McColl Action Group. This neighborhood committee participated actively in decisions related to the site from 1985 through 1991. EPA and DTSC often were invited to make presentations to the group. The group disbanded in 1991. Another community group was formed in 1991, the Fullerton Hills Community Association. This group has had input into site-related decisions from the time of its formation through the final remedy construction.

Starting in 1986 and through remedial construction activities, EPA and DTSC have held regular meetings with the Interagency Committee, comprised of several local agencies and elected officials. These agencies consist of the City of Fullerton, South Coast Air Quality Management District, City of Buena Park, Orange County Environmental Health, and California Regional Water Quality Control Board, California Department of Health Services' Drinking Water Branch, and California Environmental Protection Agency's Office of Environmental Health Hazard Assessment. The elected officials include the 39th Congressional District (formerly held by Representative Dannemeyer and currently held by Representative Edward Royce). All elected officials in the area remain on the mailing list for the site, and receive all information related to site activities.

Community participation has continued to be important in the decision-making process over the last several years. Throughout remedial construction, EPA and the McColl Site Group conducted a variety of community relations activities in accordance with the *McColl Site Community Relations Plan*. These activities have included public meetings, small group meetings, regular fact sheet mailings to community members, informational "lemonade stands", maintenance of a toll-free information line, on-site open houses, and regular contact with the media to provide information.

EPA will continue to work closely with the community throughout the ongoing operation and maintenance period to keep residents informed about the status of the constructed remedy. EPA will also continue to monitor community interests and concerns, and will conduct community involvement activities as needed to address those concerns.

H. Applicable Deletion Criteria

As specified under § 300.425(e)(1) of the NCP, if EPA, in consultation with the state, determines that any of the three criteria for site deletion has been met, then the site is considered eligible

for deletion from the NPL. In the case of the McColl site, EPA believes that the following criteria for site deletion has been met:

All appropriate response under CERCLA has been implemented, and no further action by the responsible parties is appropriate.

EPA, with the concurrence of DTSC, believes that this criterion for deletion have been met. Subsequently, EPA is proposing deletion of this site from the NPL. Documents supporting this action are available from the docket.

I. State Concurrence

The California Department of Toxic Substances Control concurs with the proposed deletion of the McColl Superfund site from the NPL.

Dated: July 16, 1998.

Keith A. Takata,

Acting Regional Administrator, Region 9.

[FR Doc. 98–19653 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 54 and 69

[CC Docket Nos. 97–21 and 96–45; DA 98–1336]

Federal Universal Service Support Mechanisms

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: In this document, the Commission seeks comment on the Report and Proposed Plan of Reorganization (Plan) filed on July 1, 1998 by the Universal Service Administrative Company (USAC), the Schools and Libraries Corporation (SLC), and the Rural Health Care Corporation (RHCC). The Plan proposes a revised administrative structure of the federal universal service support mechanisms. RHCC filed a Separate Statement of the Rural Health Care Corporation and Request for Three Changes in the Plan, dissenting from certain provisions of the proposed Plan. In this document, the Commission also seeks comment on other issues regarding the administration of the federal universal service support mechanisms, including processes for Commission review of actions by USAC, SLC, and RHCC.

DATES: Comments are due on or before August 5, 1998 and Reply Comments are due on or before August 12, 1998.

ADDRESSES: One original and six copies of all comments and reply comments should be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. All filings should refer to USAC Plan of Reorganization, CC Docket Nos. 97–21 and 96–45, and DA 98–1336. Parties also may file comments electronically via the Internet at: <http://www.fcc.gov/e-file/ecfs.html>. Only one copy of an electronic submission must be submitted. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the lead docket number for this proceeding, which is Docket No. 97–21. Parties not submitting their comments via the Internet are also asked to submit their comments on diskette. Parties submitting diskettes should submit them to Sheryl Todd, Accounting Policy Division, 2100 M Street, N.W., Room 8606, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the party's name, proceeding (including the lead docket number in this case, Docket No. 97–21), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, parties must send copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Sharon Webber, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400 or Adrian Wright, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on July 15, 1998. The full text of this document and the Plan are available for public inspection during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., 20554. An electronic copy of the complete plan of reorganization also may be found on the Commission's Universal Service Web Page at <www.fcc.gov/ccb/universal_service/usacjuly.pdf>.

Background

1. In connection with supplemental appropriations legislation enacted on May 1, 1998, Congress requested that the Commission propose a single entity to administer the support mechanisms for schools and libraries and rural health care providers. In its *Report to Congress*, the Commission proposed to merge the Schools and Libraries Corporation (SLC) and the Rural Health Care Corporation (RHCC) into the Universal Service Administrative Company (USAC) as the single entity responsible for administering the universal service support mechanisms for schools, libraries and rural health care providers by January 1, 1999. The Commission indicated that USAC, SLC and RHCC would be required jointly to prepare and submit a plan of reorganization, for approval by the Commission.

2. On July 1, 1998, SLC, RHCC and USAC filed a Report and Proposed Plan of Reorganization (Plan) for revising the administrative structure of the federal universal service support mechanisms. RHCC filed a Separate Statement of the Rural Health Care Corporation and Request for Three Changes in the Plan (RHCC Statement), proposing certain modifications to the Plan. In this document, we seek comment from interested parties on issues raised by the Plan and the RHCC Statement. We also seek comment on other issues regarding the administration of the federal universal service support mechanisms, including processes for Commission review of actions by USAC, RHCC and SLC, divestiture of USAC from the National Exchange Carrier Association (NECA), and compensation limitations.

Issues for Comment

Revised Administrative Structure

3. USAC, SLC, and RHCC have proposed a plan to merge SLC and RHCC into USAC as the single entity responsible for administering the universal service support mechanisms for schools, libraries and rural health care providers by January 1, 1999. As described more fully in the Plan, USAC would consist of three divisions—the High Cost & Low Income Division, the Schools and Libraries Division, and the Rural Health Care Division. The current USAC Board consists of seventeen members representing a cross-section of industry and beneficiary interests. Under the revised administrative structure, the USAC Board of Directors (the Board) would consist of seventeen

members plus the USAC Chief Executive Officer (CEO). In addition, the Plan proposes that two new committees of the USAC Board would be established to oversee the schools and libraries and rural health care support mechanisms. Any action taken by the Rural Health Care, Schools and Libraries, and High Cost and Low Income committees with regard to their respective support mechanisms would be binding on the Board, unless such action is presented for review to the full Board by the USAC CEO and the Board disapproves of such action by a two-thirds vote of a quorum of directors. However, all committee budgetary matters would be presented to the full USAC Board and could be disapproved by a two-thirds vote of a quorum of directors. Under the Plan, the USAC CEO would manage all three universal service support mechanisms.

4. We seek comment on whether vesting the consolidated USAC with the administrative responsibilities for all of the universal service support mechanisms would best further the goals of efficient administration and accountability. We also seek comment on whether the Plan fulfills the goal of administrative efficiency while preserving the distinct missions of the three universal service support mechanisms. We seek comment on any other administrative structures the Commission could adopt. To the extent that parties suggest alternative structures, we urge them to provide as much detail as possible, and to evaluate fully the benefits and disadvantages of such structure in comparison to USAC's Plan. We also seek comment on the proposed functions and composition of the three committees of the Board, as described in the Plan.

5. Although the Plan is silent on the selection process for the USAC CEO, we seek comment on whether the Commission should adopt the procedure that currently applies to the selection of a CEO for SLC and RHCC. Under that procedure, the consolidated USAC Board would submit to the Chairman of the Commission a candidate to serve as the USAC CEO. Final selection of that individual would be subject to the approval of the Chairman of the Commission.

6. In the RHCC Statement, RHCC proposes three modifications to the proposed Plan. First, RHCC proposes that two additional rural health care representatives serve on the USAC Board and that the Plan identify the individuals who initially would serve on the combined Board and the individuals who would serve on the initial Rural Health Care Committee. Second, RHCC proposes that the RHCC Committee have the authority to bind the full USAC Board with regard to all of the Committee's programmatic functions and that Committee decisions not be subject to disapproval by a two-thirds vote of a quorum of the Board. Third, while RHCC agrees that the CEO should have the authority to hire and fire the division heads, RHCC proposes that the RHCC division head be granted the authority to hire and fire division staff. We seek comment on RHCC's proposals.

Compensation Limitations

7. In the Commission's recent order regarding funding for the schools and libraries universal service support mechanism, the Commission concluded that the Administrator must, as a condition of its continued service, compensate all officers and employees of SLC and RHCC at an annual rate of pay, including any non-regular payments, bonuses, or other compensation, that does not exceed the rate of basic pay in effect for Level I of the Executive Schedule under section 5312 of Title 5 of the United States Code. The Commission further stated that such level of compensation would apply, effective July 1, 1998, to all officers and employees of SLC and RHCC, as currently organized, as well as to all such officers and employees in the consolidated administrative corporation following reorganization on January 1, 1999. We seek comment on whether compensation limitations also should apply to all USAC officers and employees, including, for example, those responsible for administering the support mechanisms for high cost areas and low income consumers as well as those responsible for performing the billing and collection functions for all of the support mechanisms. We also seek comment on whether such compensation limitations should apply to officers and employees of NECA.

USAC's Permanence and Divestiture From NECA

8. In the *Report to Congress*, the Commission proposed that the revised administrative structure be made permanent, subject to the Commission's review and determination after one year that the new structure is administering the distribution of universal service support and benefits to eligible entities in an efficient, effective and competitively neutral manner. We seek comment on the Commission's proposal to designate USAC as the permanent Administrator. In the *Report to Congress*, the Commission further proposed that, pending Commission review of USAC's performance after one year, USAC should be divested from NECA. The Plan proposes to divest USAC from NECA as soon as possible. We seek comment on the proposed divestiture of USAC from NECA and the timing of such divestiture.

FCC Oversight

9. The Commission has always retained ultimate control over the operation of the federal universal service support mechanisms through its authority to establish the rules governing the support mechanisms and to review all decisions concerning administration of the support mechanisms. The consolidated USAC would continue to be accountable to the Commission pursuant to the procedures that currently apply to USAC, SLC, and RHCC. SLC and RHCC have the authority to direct the performance of audits of schools and libraries and rural health care provider beneficiaries of universal service support. The Commission also oversees the structure and content of the annual independent audit that USAC, SLC, and RHCC are required to undertake.

10. The Commission will levy a forfeiture for a violation of the Act under section 503(b)(1)(B) and (2)(C) of the Act. Furthermore, persons found willfully to have made false statements to the Commission may be subject to criminal penalties under Title 18 of the United States Code.

11. We note that parties already have asked the Commission what procedures will be used to review decisions by SLC, RHCC, and USAC. Any affected party may seek review from the Commission using existing Commission procedures. However, until a revised administrative structure is adopted, we strongly encourage parties seeking relief from a decision of USAC, SLC, or RHCC to seek initial reconsideration from SLC, RHCC or the High Cost and Low Income Committee, as appropriate.

12. In the *Report to Congress*, the Commission proposed to establish specific appeal procedures under which administrative decisions made by USAC would be reviewable by the Commission. We seek comment on the following proposal: An affected party would be permitted to file with the Common Carrier Bureau (the Bureau), within sixty days of an action taken by USAC, a petition for Commission review. The Bureau would have delegated authority to rule on such petition and if the Bureau took no action within sixty days, USAC's decision would be deemed approved by the Bureau. As with other decisions made by the Bureau acting pursuant to its

delegated authority, parties could seek Commission review of the Bureau's decision. The Bureau also would have the authority to review the decisions of USAC at any time on the Bureau's own motion. The Bureau would conduct *de novo* review of appeals from USAC decisions. If an application for discounted services or support is approved, and that approval is appealed to the Commission, the pendency of that appeal would not affect the eligibility of the applicant to receive discounted services, nor would it prevent reimbursement of carriers for discounted services provided to such applicants. We seek comment on all aspects of this proposal. At the same time, we propose to limit the Bureau's authority to issues that are not novel questions of fact, law or policy. We seek comment on this proposal. We also seek comment on whether state procurement rules or other state experiences may serve as useful models in addressing appeals of USAC's decisions.

13. In addition, we seek comment on whether a party affected by a decision made by the division staff should be required to seek relief from the appropriate committee of the Board before filing an appeal with the Commission. Similarly, if the relief sought pertains to a matter that is solely within the jurisdiction of the full USAC Board, we seek comment on whether the affected party should be required to seek relief from the full USAC Board before filing an appeal with the Commission. We also seek comment on the timing issues that would be raised if the USAC CEO chose to bring the matter before the full USAC Board under the supermajority procedure. In addition, we seek comment on other ways in which the appeals process may be made as fair and efficient as possible.

14. To foster greater accountability of the consolidated USAC entity, the Commission proposed in the *Report to Congress* that, in connection with its annual audit, USAC prepare and file with Congress and the Commission an annual report describing all significant aspects of its structure and operations for the preceding year. We seek comment on this proposal and on ways to structure such a report to enhance the Commission's oversight of USAC's administration and operations.

15. We seek comment on whether there are any additional enforcement mechanisms that the Commission should invoke. Furthermore, we seek comment on what action the Commission should take if it is determined that an application was approved and funds subsequently disbursed erroneously.

Regulatory Flexibility Analysis

16. The Regulatory Flexibility Act (RFA) requires that a regulatory flexibility analysis be prepared for notice and comment rulemaking proceedings, unless the agency certifies that "the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." The RFA generally defines "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." This regulatory flexibility analysis supplements our prior certification and analyses.

17. *Supplemental Regulatory Flexibility Certification.* In the *NECA Governance Order,* the Commission directed NECA, as a condition of its service as temporary Administrator of the universal service support mechanisms, to create an independent subsidiary, USAC, to administer temporarily certain aspects of the universal service support mechanisms and to establish SLC and RHCC to administer specific aspects of the universal service mechanisms for schools and libraries and rural health care providers. In that *Order,* the Commission concluded that NECA is not a small organization within the meaning of the RFA, finding that NECA is a non-profit association that was created to administer the Commission's interstate access tariff and revenue distribution processes. On this basis, the Commission certified pursuant to the RFA that the rules adopted in the *NECA Governance Order* would not have a significant economic impact on a substantial number of small entities.

18. This document seeks comment on the proposed plan to merge SLC and RHCC into USAC as the single entity responsible for the administration of the universal service support mechanisms for schools, libraries and rural health care providers. We also seek comment on a proposal to require USAC to prepare and file with Congress and the Commission an annual report describing all significant aspects of its structure and operations for the preceding year. For the same reasons stated in the *NECA Governance Order,* we find that NECA is not a small organization within the meaning of the RFA. Similarly, USAC, as a wholly-owned, non-profit subsidiary of NECA, is not a small organization. SLC and RHCC are non-profit corporations created by NECA as a condition of its service as temporary Administrator. Even if NECA, USAC, SLC and RHCC are small entities, we certify that the reorganization of SLC, RHCC, and USAC proposed here will affect directly only those four entities and thus will not have a direct, significant impact on a substantial number of small entities. We therefore certify, pursuant to RFA, 5 USC 605(b), that this action will not have a significant economic impact on a substantial number of small entities.

19. *Supplemental Regulatory Flexibility Analysis.* This document seeks comment on the proposed procedures under which administrative decisions made by USAC would be reviewable by the Commission. This document also seeks comment on the enforcement mechanisms the Commission should invoke in connection with the universal service support mechanisms. We previously performed a regulatory flexibility analysis regarding the implementation of the universal service support mechanisms. This supplemental regulatory flexibility analysis addresses possible changes to our previous analyses that might result from our proposal here.

20. The Commission is required by sections 254(a)(2) and 410(c) of the Act to propose rules to implement properly the universal service support mechanisms. In this document, the Commission proposes procedures under which administrative decisions made by USAC would be reviewable by the Commission. This document also seeks comment on whether a party affected by a decision made by the division staff of USAC should be required to seek relief from the appropriate committee of the USAC Board before filing an appeal with the Commission. Specific appeal procedures are necessary to ensure that the Commission retains ultimate authority over the implementation of universal service support mechanisms. The description of the small entities to which the proposed rules would apply is set forth in the *Universal Service Order* and continues to apply to our analysis. The Commission proposes a two-level appeal process. We do not believe that such a requirement will have a significant economic impact on the small entities affected by the process. Affected parties will benefit from review by the appropriate committee of the full USAC Board instead of having to resort to full Commission review in the first instance. We seek comment on these tentative conclusions.

21. The Commission's Office of Public Affairs Reference Operations Division, will send a copy of this document,

including this certification, to the Chief Counsel for Advocacy of the Small Business Administration.

Ex Parte

22. Pursuant to 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which ex parte communications are permitted subject to disclosure.

List of Subjects

47 CFR Part 54

Healthcare providers, Libraries, Schools, Telephone.

47 CFR Part 69

Communications common carriers.

Federal Communications Commission.

Kathryn C. Brown,

Chief Common Carrier Bureau.

Statement of Commissioner Harold Furchtgott-Roth

Re: Proposal to Revise Administrative Structure for Federal Universal Service Support Mechanisms; (CC Docket No 96–45)

July 15, 1998.

Today the Common Carrier Bureau releases a Public Notice seeking comment on the Universal Service Administrative Company's (USAC) proposed plan for reorganization of the universal service administrative structures. The proposal for consolidating the three corporations is a good first step in reaching a more rational and efficient structure to administer universal service. I also appreciate that the Bureau is following up on the Commission's commitment in its May 8, 1998 report to Congress to "establish a procedure under which administrative decisions made by USAC would be reviewable by the Commission." I have reservations, however, about the details of these proposals, including the specific functions of the consolidated entity and the Bureau's proposed procedures for Commission oversight.

Section 2005(b)(2)(A) of Senate Bill 1768, which prompted these revisions, provides for an extremely limited administrative entity:

[T]he entity proposed by the Commission to administer the program—(i) is limited to implementation of the FCC rules for applications for discounts and processing the application necessary to determine eligibility for discounts under section 254(h) of the Communications Act of 1934 (47 U.S.C. 254(h)) as determined by the Commission: (ii) may not administer the program in any manner that requires that entity to interpret the intent of Congress in establishing the programs or interpret any rule promulgated by the Commission in carrying out the programs, without appropriate consultation and guidance from the Commission.

In light of such limited administrative functions, I fail to see the need for such bureaucratic corporations with formal multiple committees. If the overall entity is prohibited from setting policy and limited to the function of processing applications, then any subcommittee must be similarly constrained. But what kinds of decisions will any subcommittee be making that would be of such paramount interest to the program that it would be necessary to bind the full USAC board absent a supermajority? In establishing an entity to review and process the applications, the Commission is merely contracting out administrative functions. All decisions regarding where the money should be going and how it should be distributed should—indeed must—be made by the Commission.

I am also concerned that the Commission itself is insufficiently involved in the decision-making process under the Bureau's proposal. For example, an affected party would file a petition for review first with the Common Carrier Bureau, who would have specific delegated authority to rule on the petitions with possible appeal to the full Commission. I would prefer that the full Commission be more actively involved in overseeing the administration of these new programs. For example. unless amended, this process would allow for Bureau approval of USAC decisions without an order explaining their reasoning. My concerns regarding sufficient Commission involvement earlier in the process are only exacerbated by the Bureau's proposal to allow applicants to receive discounted services and carriers to be reimbursed during the pendency of such an appeal. Thus, If the Bureau failed to act for any number of reasons, public funds would still be disbursed while a potentially valid challenge remained. What assurances are there for taxpayers that erroneous payments will be returned?

I also fail to see the need for any party to be required to appeal a USAC staff decision first to the USAC Board, and possibly even to the relevant committee of the Board, as proposed. USAC has no policy-making or adjudicative authority. As such, an affected party should be able to seek relief directly from the full Commission, or the Bureau if appropriate under delegated authority.

Moreover, my concerns regarding appropriate Commission oversight are heightened by the fact that the proposed committees of USAC would have the power to bind the USAC Board regarding matters within their expertise, absent a supermajority of the full USAC Board voting to override the committee's actions. Matters within the Schools and Libraries Committee's expertise. For example, include "developing and implementing other distinctive program functions." I am concerned with such open-ended authority, especially in light of the protracted procedure for Commission review. I encourage parties to take these issues into account when commenting on the proposed structure.

I believe that the full Commission must take a more active role in the direct oversight of these quasi-public companies. Congress clearly favors a more efficient organization of only limited administrative functions, without the ability to "interpret the intent of Congress" or "any rule promulgated by the Commission.[1] While a good start, this public notice fails to ensure meaningful and early Commission involvement in budgetary decisions and the policy-making process.[2]

Finally, I remain concerned that the report fails to address fully the issues raised by the GAO report regarding the legality of the Commission creating any new corporations without specific statutory authority. I fail to see how the Commission can direct that these corporations continue to act without first receiving the requisite authorization from Congress, and urge others to comment on this aspect of the revised organization.

[FR Doc. 98–19707 Filed 7–22–98; 8:45 am]

BILLING CODE 6712–01–M

[1] Section 2005(b) of Senate Bill 1768.

[2] For example, I am concerned about the degree of oversight that is being exercised regarding administrative and start-up costs. In their latest filing, the Schools and Libraries Corporation indicates that it paid NECA $1.86 million in start-up costs, more than three time the original estimate, and it is still not able to provide an accurate estimate of all its administrative costs for the first quarter. Third Quarter 1998 Fund Size Requirements for the Schools and Libraries Universal Service Program, dated May 1, 1998.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018–AE46

Migratory Bird Special Canada Goose Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; re-opening of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the re-opening of the comment period for the Service's proposed rule on the establishment of a Canada goose damage management program. The program is designed to provide a biologically sound and more cost-effective and efficient method for the control of locally-breeding (resident) Canada geese that pose a threat to health and human safety and are responsible for damage to personal and public property.

DATES: The original comment period for the proposed rule closed June 1, 1998. The re-opened comment period will end on September 21, 1998.

ADDRESSES: Interested parties should submit written comments on the proposal to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634–ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours in room 634, ARLSQ Building, 4401 N. Fairfax Drive, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

SUPPLEMENTARY INFORMATION: On March 31, 1998, the Service published in the **Federal Register** (63 FR 15698) a proposal to amend 50 CFR part 21. The proposal dealt with the establishment of a Canada goose damage management program. This program is designed to provide a biologically sound and more cost-effective and efficient method for the control of locally-breeding (resident) Canada geese that pose a threat to health and human safety and are responsible for damage to personal and public property. More specifically, the Service proposed to add a new permit option available to State conservation agencies specifically for resident Canada goose control and damage management. The special permit would only be available to a State conservation or wildlife management agency responsible for migratory bird management. Under this permit, States and their designated agents could initiate resident goose damage management and control injury problems within the conditions/restrictions of the program. Those States not wishing to obtain this new permit would continue to operate under the current permitting process.

The comment period is being re-opened to incorporate views from all parties that have expressed an interest in reviewing the proposed rule and environmental assessment. All previously submitted comments received after the original June 1, 1998, closing date will be considered.

In addition, the Service notifies the public of an administrative error associated with this proposal. In compliance with the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), the Service prepared an Environmental Assessment (EA) on the proposed establishment of the program and options considered in the "Environmental Assessment: Permits for the Control and Management of Injurious Resident Canada Geese." In conjunction with that EA, the Service had prepared a draft finding that the new permit option would not be a major Federal action that would significantly affect the quality of the human environment as an administrative convenience. In error, the draft finding was included in the materials accompanying the final EA and was mistakenly finalized. The Service is now rescinding that inadvertent finding and will be considering the NEPA requirements if and when it makes a final decision on the proposed action. The EA is available to the public at the location indicated under the **ADDRESSES** caption.

Paperwork Reduction Act and Information Collection

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Service submitted the necessary paperwork to the Office of Management and Budget (OMB) for approval to collect the information required by the applicant and permittee. Under the Act, information collections must be approved by OMB. After review, the information collection requirements of the Special Canada Goose Permit were approved by OMB and assigned clearance number 1018–0099. The information collection requirement will be used to administer this program and, particularly in the issuance and monitoring of these special Canada goose permits. The information requested will be required to obtain a special Canada goose permit, and to determine if the applicant meets all the permit issuance criteria, and to protect migratory birds.

Authority: Pub. L. 95–616, 92 Stat. 3112 (16 U.S.C. 712(2)).

Dated: July 17, 1998.

Stephen C. Saunders,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–19625 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 63, No. 141
Thursday, July 23, 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

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.
ACTION: Notice of meeting.

SUMMARY: The Klamath Advisory Committee will meet on July 30 and 31, 1998 at the Oregon Institute of Technology Shasta Complex, 3210 Campus Drive, Klamath Falls, Oregon. On July 30, the meeting will begin at 9:00 a.m. and adjourn at 5:00 p.m. The meeting on July 31 will resume at 8:00 a.m. and adjourn at 1:00 p.m. Agenda items to be covered include: (1) data adequacy and scale questions for analysis; (2) general discussion on the process from the Watershed Analysis to project-level implementation; (3) follow-up on the 3PAC/SCERT meeting; (4) follow-up on rechartering the Memorandum of Understanding for the IAC/PACs; and (5) public comment periods. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, 1312 Fairlane Road, Yreka, California 96097; telephone 530–841–4468.

Dated: July 17, 1998.

Jan Ford,

Assistant to the Forest Supervisor.

[FR Doc. 98–19614 Filed 2222–98; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Michigan Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on Thursday, August 13, 1998, at the Harley Hotel, 4041 Cascade Road SE, Grand Rapids, MI 49546. The purpose of the meeting is to hold a press conference to release the Committee's report, Community Forum on Race Relations in Grand Rapids, discuss civil rights issues, and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Roland Hwang, 517–373–1476, or Constance M. Davis, Director of the Midwestern Regional Office, 312–353–8311 (TDD 312–353–8362). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 14, 1998.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 98–19575 Filed 7–22–98; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Saltonstall-Kennedy (S–K) Grant Program Application and Reports.

Agency Form Number(s): NOAA 88–204, NOAA 88–205.

OMB Approval Number: 0648–0135.

Type of Request: Extension of a currently approved collection.

Burden: 985 hours.

Number of Respondents: 210 (with multiple responses).

Avg. Hours Per Response: Ranges between 2 and 13 hours depending on the requirement.

Needs and Uses: The S–K Program provides financial assistance on a competitive basis for research and development projects that benefit U.S. fishing communities. Respondents to the application process will be universities, State or local governments, fisheries development foundations, industry associations, private companies, and individuals applying for grant funds. Grantees will be required to make progress and final reports.

Affected Public: Not-for-profit institutions, individuals, businesses or other for-profit organizations, State, Local or Tribal Government.

Frequency: On occasion, semi-annually, annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 17, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–19600 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Involuntary Child and Spousal Support Allotments of NOAA Corps Officers.

Agency Form Number(s): None.

OMB Approval Number: 0648–0242.

Type of Request: Extension of a currently approved collection.

Burden: 5 hours.

Number of Respondents: 5.

Avg. Hours Per Response: 1 hour.

Needs and Uses: Spouses, ex-spouses, or children of active-duty NOAA Corps officers may seek of obtain involuntary deductions of allotments from an officer's pay if the officer has failed to make periodic payments under a support order. To obtain such an allotment, a certified copy of the support order and related information must be provided.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: July 17, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–19601 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 USC Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northeast Region Dealer Purchases Family of Forms.

Agency Form Number(s): NOAA 88–30 and 88–142.

OMB Approval Number: 0648–0229.

Type of Request: Northeast Region Dealer Purchases Family of Forms.

Burden: 3,391.

Number of Respondents: 1,245.

Avg. Hours Per Response: 2 to 24 minutes depending on the requirement.

Needs and Uses: Dealer reporting of purchases is needed to obtain fishery-dependent data on the landings and purchases of fish and shellfish to monitor, evaluate and enforce fishery regulations, collect basic fisheries statistics (species, pounds, and value), and to collect certain effort information for economic and biological assessment of the stocks. Data received via the Interactive Voice Response System are needed to monitor harvest levels of certain species on a real-time basis and implement catch limits or closures needed.

Affected Public: Businesses or other for-profit organizations.

Frequency: On occasion, weekly, monthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503.

Dated: July 17, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–19602 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility to Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: To give firms an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 6/16/98–7/15/98

Firm name	Address	Date petition accepted	Product
Monroe Fluid Technology, Inc ..	36 Draffin Road, Hilton, NY 14468.	6/5/98	Metalworking Fluids.
Danforth Peweterers, Ltd	52 Seymour St., Middlebury, VT 05753.	6/23/98	Cast Pewter Jewelry and Giftware and Spun Pewter Holloware.
Cesco Brass, Ltd	135 South Main Street, Thomaston, CT 06787.	6/25/98	Brass Toilet Fill Valves, Brass Toilet Levers and Brass Toilet Flush Valves.
SB Electronics, Inc	131 South Main Street, Barre, VT 05641.	6/25/98	Film/Foil Dielectric Capacitors.
Ergodyne Corporation	1410 Energy Park Drive, St. Paul, MN 55108.	6/26/98	Gloves and Leather, Fabric and Padding.
Pharmaceutical Innovations, Inc	897 Frelinghuysen Avenue, Newark, NJ 07114.	6/26/98	Electronic Conductivity Gels.
P.T. Apparel, Inc	410 North Ashe Avenue, Dunn, NC 28334.	6/30/98	Women's Knitted Blouses and Tops of Cotton.
Industrial Dynamics Company ..	9564 Deereco Road, Timonium, MD 21093.	6/30/98	Electrical Distribution Panels and Sheet Metal Fabiracted Parts.
Dina, Inc	303 Coons Blvd., Oswego, KS 67356.	7/1/98	Cultured Marble Home Assessories and Picture and Mirror Frames.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD 6/16/98–7/15/98—Continued

Firm name	Address	Date petition accepted	Product
Loose Leaf Hardware and Manufacturing Co., Inc.	720 Koeln Avenue, St. Louis, MO 63111.	7/1/98	Mechnical Metal Fastening Devices for Loose Leaf Paper Used in Catalog, Manuals and Binders.
Follette & Company, Inc	1991 Pearidge Road, Ruston, LA 71270.	7/1/98	Ceramic Tableware.
Southwest Corset Corporation	318 North 29th Street, Blackwell, OK 74631.	7/2/98	Girdles and Panty Girdles.
Multicircuits, Inc	2301 Universal Street, Winnebago, WI 54904.	7/2/98	Multi-Layer Printed Circuit Boards.
Sencer, Inc	One Keuka Business Park, Penn Yan, NY 14527.	7/10/98	Furnace Control Units Which Detect and Monitor Internal Heating in Lab and Industrial Applications.
GDM Enterprises, Inc	49 Sanford Street, Albion, NY 14411.	7/10/98	Stainless Steel Enclosures Used for Electronic Point of Purchase Cash Registers and Film Processing.
Spires Sports Manufacturing, Inc.	150 Broad Street, Norman Park, GA 31771.	7/13/98	Term Sports Uniforms of Synthetic Fibers for Men and Women.
Revolution Helicopter Copr., Inc	1905 W. Jesse James Road, Excelsior Springs, MO 64024.	7/13/98	Single Passenger Helicopter Kits.
Eagle Grinding Wheel Corporation.	2519 W. Fulton Street, Chicago, IL 60612.	7/13/98	Grinding Wheels and Stones.
Plastidyne Corporation	922 Industrial Way, Unit E, Lodi, CA 95240.	7/13/98	Percision Modls and Plastic Injection Molding.
South Haven Coil, Incorporated	5585 Blue Star Memorial Highway, South Haven, MI 49090.	7/14/98	Electronic Coils for the Auto, Security and Value Industries.
American Products Company, L.L.C.	610 Rahway Avenue, Union, NJ 07083.	7/14/98	High Precision Custom Metal Machined Component Parts for Various Industries.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

(The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance)

Dated: July 15, 1998.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 98–19487 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071798C]

Magnuson-Stevens Act Provisions; Atlantic Swordfish Fisheries; Exempted Fishing Permits

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

ACTION: Applications for EFPs; deadline for receipt of EFP applications; request for comments.

SUMMARY: NMFS announces the availability of Exempted Fishing Permits (EFPs) to swordfish driftnet vessels for the 1998 swordfish driftnet fishing season. If granted, these EFPs would authorize directed swordfish driftnet fishing after the closure date of August 9, 1998. This would allow for real-time quota monitoring and a continued fishing season should the swordfish driftnet quota not be caught by the closure date.

DATES: Written comments on this program must be received on or before July 31, 1998. Applications for EFPs must be received on or before July 31, 1998.

ADDRESSES: Send comments to Rebecca Lent, Chief, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the regulations under which exempted fishing permits are subject may also be requested from this address.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, 301–713–2347; fax: 301–713–1917.

SUPPLEMENTARY INFORMATION: These EFPs are requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and regulations at 50 CFR 600.745 concerning scientific research activity, exempted fishing, and exempted educational activity. The Atlantic swordfish driftnet fishery typically lasts 7–14 days at which time the quota is met and the fishery ceases. Current Federal regulations require NMFS to notify fishery participants 14 days in advance of a fishery closure. This may result in a closure notice that is published prior to the start of fishing without benefit of observing current catch rates. Because catch rates in this fishery are so variable (in 1996, daily landings ranged from 3,910 lb (1.8 mt) dressed weight (dw) to 30,962 lb (14 mt)dw), it is preferable to implement a real-time quota monitoring program in which NMFS monitors daily landings of swordfish in the fleet and "closes" the fishery when the quota is met.

Fishing vessels would apply for an EFP. EFP recipients would then be able

to fish each day after the closure (August 9, 1998) provided they report swordfish landings from the previous evening's driftnet set. The EFP would not be valid each day until the landings report was received by NMFS. Another condition of the EFP would be that, upon notice, all driftnet vessels must cease fishing and return to port for offloading of their catch.

It is expected that fewer than 12 vessels will apply for the EFPs. The proposed quota monitoring program involves activities (fishing after a closure) otherwise prohibited by Atlantic swordfish regulations. The applicants require daily authorization to fish for, and to possess, Atlantic swordfish with a driftnet outside the Federal commercial fishing season.

Based on 12 potential applicants, NMFS finds that this program warrants further consideration. A final decision on issuance of EFPs will depend on the submission of all required information, NMFS' review of public comments received on this notice, and on any consultations with any appropriate Regional Fishery Management Councils, states, or Federal agencies.

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

Dated: July 17, 1998.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19560 Filed 7–17–98; 4:20 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 071598F]

Mid-Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's Surfclam and Ocean Quahog Committee and Industry Advisory Panel will hold a public meeting.

DATES: The meeting will be held on Thursday, August 6, 1998, from 10:00 a.m. until 5:00 p.m.

ADDRESSES: This meeting will be held at the Wilmington Hilton, I–95 & Naamans Road, Wilmington, 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: Christopher M. Moore, Ph.D., Acting Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 16.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to: (1) develop recommendations for the Council on the annual surfclam and ocean quahog quota recommendation to the Regional Administrator; (2) discuss potential industry economic data collection, and (3) present a recommendation on maintenance of or suspension of the minimum size limits for surfclams.

Although other issues not contained in this agenda may come before the Committee for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

Special Accommodations

This meeting is 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: July 17, 1998.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–19552 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration (NTIA)

Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; Notice of Open Meeting

ACTION: Notice is hereby given of a meeting of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, created pursuant to Executive Order 13038.

SUMMARY: The President established the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (PIAC) to advise the Vice President on the public interest obligations of digital broadcasters. The Committee will study and recommend which public interest obligations should accompany broadcasters' receipt of digital television licenses. The President designated the National Telecommunications and Information Administration as secretariat for the Committee.

Authority: Executive Order 13038, signed by President Clinton on March 11, 1997.

DATES: The meeting will be held on Monday, August 10, 1998 from 9:00 a.m. to 5:30 p.m.

ADDRESSES: The meeting is scheduled to take place in the Auditorium at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. This location is subject to change. If the location changes, another **Federal Register** notice will be issued. Updates about the location of the meeting will also be available on the Advisory Committee's homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm or you may call Karen Edwards at 202–482–8056.

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Designated Federal Officer and Telecommunications Policy Specialist, at the National Telecommunications and Information Administration, U.S. Department of Commerce, Room 4720, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Telephone: 202–482–8056; Fax: 202–482–8058; E-mail: piac@ntia.doc.gov.

Media Inquiries: Please contact NTIA's Office of Public Affairs at 202–482–7002.

Agenda:

Monday, August 10

Opening remarks
Committee deliberations
Public comment
Closing remarks

This agenda is subject to change. For an updated, more detailed agenda, please check the Advisory Committee at www.ntia.doc.gov/pubintadvcom/pubint.htm.

Public Participation

The meeting will be open to the public, with limited seating available on a first-come, first-served basis. Please bring a form of picture identification such as a driver's license or passport for clearance into the building on the day of the meeting. This meeting is physically accessible to people with disabilities. Any member of the public requiring special services, such as sign language interpretation or other ancillary aids, should contact Karen Edwards at least five (5) working days prior to the meeting at 202–482–8056 or at piac@ntia.doc.gov.

Members of the public may submit written comments concerning the

Committee's affairs at any time before or after the meeting. The Secretariat's guidelines for public comment are described below and are available on the Advisory Committee homepage (www.ntia.doc.gov/pubintadvcom/pubint.htm) or by calling 202–482–8056.

Guidelines for Public Comment

The Advisory Committee on Public Interest Obligations of Digital Television Broadcasters welcomes public comments.

Oral Comment: In general, opportunities for oral comment will usually be limited to no more than five (5) minutes per speaker and no more than thirty (30) minutes total at each meeting.

Written Comment: Written comments must be submitted to the Advisory Committee Secretariat at the address listed below. Comments can be submitted either by letter addressed to the Committee (please place "Public Comment" on the bottom left of the envelope and submit at least thirty-five (35) copies) or by electronic mail to piac@ntia.doc.gov (please use "Public Comment" as the subject line). Written comments received within three (3) working days of a meeting and comments received shortly after a meeting will be compiled and sent as briefing material to Committee members prior to the next scheduled meeting.

Obtaining Meeting Minutes

Within thirty (30) days following the meeting, copies of the minutes of the meeting may be obtained over the Internet at www.ntia.doc.gov/pubintadvcom/pubint.htm, by phone request at 202–482–8056, by email request at piac@ntia.doc.gov or by written request to Karen Edwards; Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4720; 14th Street and Constitution Avenue NW., Washington, DC 20230.

Larry Irving,

Assistant Secretary for Communications and Information.

[FR Doc. 98–19657 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–60–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in the People's Republic of China

July 17, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 23, 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 increased for carryover.

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 67827, published on December 30, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 17, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 22, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in China and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on July 23, 1998, you are directed to increase the limits for the following categories, as provided for under the terms of the current bilateral textile agreement between the Governments of the United States and the People's Republic of China:

Category	Adjusted twelve-month limit [1]
Group I.	
200, 218, 219, 226, 237, 239, 300/301, 313–315, 317/326, 331, 333–336, 338/339, 340–342, 345, 347/348, 350–352, 359–C [2], 359–V [3], 360–363, 369–D [4], 369–H [5], 369–L [6], 410, 433–436, 438, 440, 442–444, 445/446, 447, 448, 607, 611, 613–615, 617, 631, 633–636, 638/639, 640–643, 644/844, 645/646, 647–652, 659–C [7], 659–H [8], 659–S [9], 666, 669–P [10], 670–L [11], 831, 833, 835, 836, 840, 842 and 845–847, as a group.	1,504,205,371 square meters equivalent.
Sublevels in Group I	
219	2,416,741 square meters.
239	3,023,617 kilograms.
300/301	2,298,967 kilograms.
313	42,261,345 square meters.
317/326	21,364,685 square meters of which not more than 4,087,485 square meters shall be in Category 326.
333	98,168 dozen.
336	173,072 dozen.
338/339	2,368,781 dozen of which not more than 1,710,282 dozen shall be in Categories 338–S/339–S [12].
341	684,604 dozen of which not more than 411,687 dozen shall be in Category 341–Y [13].
342	271,931 dozen.
359–V	890,997 kilograms.
360	7,765,552 numbers of which not more than 5,192,996 numbers shall be in Category 360–P [14].
369–H	4,998,261 kilograms.
369–L	3,323,008 kilograms.

Category	Adjusted twelve-month limit [1]
410	1,008,939 square meters of which not more than 808,774 square meters shall be in Category 410–A [15] and not more than 808,774 square meters shall be in Category 410–B [16].
435	24,852 dozen.
436	15,311 dozen.
440	38,279 dozen of which not more than 21,873 dozen shall be in Category 440–M [17].
442	40,520 dozen.
448	22,610 dozen.
607	3,256,193 kilograms.
613	7,639,277 square meters.
615	24,991,348 square meters.
617	17,130,249 square meters.
659–C	413,735 kilograms.
659–H	2,813,040 kilograms.
669–P	2,029,770 kilograms.
831	553,014 dozen pairs.
833	28,776 dozen.
835	123,339 dozen.
842	271,439 dozen.
847	1,272,132 dozen.
Levels not in a Group	
369–S [18]	624,853 kilograms.
863–S [19]	8,790,900 numbers.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1997.

[2] Category 359–C: only HTS numbers 6103.42.2025, 6103.49.8034, 6104.62.1020, 6104.69.8010, 6114.20.0048, 6114.20.0052, 6203.42.2010, 6203.42.2090, 6204.62.2010, 6211.32.0010, 6211.32.0025 and 6211.42.0010.

[3] Category 359–V: only HTS numbers 6103.19.2030, 6103.19.9030, 6104.12.0040, 6104.19.8040, 6110.20.1022, 6110.20.1024, 6110.20.2030, 6110.20.2035, 6110.90.9044, 6110.90.9046, 6201.92.2010, 6202.92.2020, 6203.19.1030, 6203.19.9030, 6204.12.0040, 6204.19.8040, 6211.32.0070 and 6211.42.0070.

[4] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[5] Category 369–H: only HTS numbers 4202.22.4020, 4202.22.4500 and 4202.22.8030.

[6] Category 369–L: only HTS numbers 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3016, 4202.92.6091 and 6307.90.9905.

[7] Category 659–C: only HTS numbers 6103.23.0055, 6103.43.2020, 6103.43.2025, 6103.49.2000, 6103.49.8038, 6104.63.1020, 6104.63.1030, 6104.69.1000, 6104.69.8014, 6114.30.3044, 6114.30.3054, 6203.43.2010, 6203.43.2090, 6203.49.1010, 6203.49.1090, 6204.63.1510, 6204.69.1010, 6210.10.9010, 6211.33.0010, 6211.33.0017 and 6211.43.0010.

[8] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

[9] Category 659–S: only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

[10] Category 669–P: only HTS numbers 6305.32.0010, 6305.32.0020, 6305.33.0010, 6305.33.0020 and 6305.39.0000.

[11] Category 670–L: only HTS numbers 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3031, 4202.92.9026 and 6307.90.9907.

[12] Category 338–S: all HTS numbers except 6109.10.0012, 6109.10.0014, 6109.10.0018, and 6109.10.0023; Category 339–S: all HTS numbers except 6109.10.0040, 6109.10.0045, 6109.10.0060 and 6109.10.0065.

[13] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[14] Category 360–P: only HTS numbers 6302.21.3010, 6302.21.5010, 6302.21.7010, 6302.21.9010, 6302.31.3010, 6302.31.5010, 6302.31.7010 and 6302.31.9010.

[15] Category 410–A: only HTS numbers 5111.11.3000, 5111.11.7030, 5111.11.7060, 5111.19.2000, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, 5111.20.9000, 5111.30.9000, 5111.90.3000, 5111.90.9000, 5212.11.1010, 5212.12.1010, 5212.13.1010, 5212.14.1010, 5212.15.1010, 5212.21.1010, 5212.22.1010, 5212.23.1010, 5212.24.1010, 5212.25.1010, 5311.00.2000, 5407.91.0510, 5407.92.0510, 5407.93.0510, 5407.94.0510, 5408.31.0510, 5408.32.0510, 5408.33.0510, 5408.34.0510, 5515.13.0510, 5515.22.0510, 5515.92.0510, 5516.31.0510, 5516.32.0510, 5516.33.0510, 5516.34.0510 and 6301.20.0020.

[16] Category 410–B: only HTS numbers 5007.10.6030, 5007.90.6030, 5112.11.2030, 5112.11.2060, 5112.19.9010, 5112.19.9020, 5112.19.9030, 5112.19.9040, 5112.19.9050, 5112.19.9060, 5112.20.3000, 5112.30.3000, 5112.90.3000, 5112.90.9010, 5112.90.9090, 5212.11.1020, 5212.12.1020, 5212.13.1020, 5212.14.1020, 5212.15.1020, 5212.21.1020, 5212.22.1020, 5212.23.1020, 5212.24.1020, 5212.25.1020, 5309.21.2000, 5309.29.2000, 5407.91.0520, 5407.92.0520, 5407.93.0520, 5407.94.0520, 5408.31.0520, 5408.32.0520, 5408.33.0520, 5408.34.0520, 5515.13.0520, 5515.22.0520, 5515.92.0520, 5516.31.0520, 5516.32.0520, 5516.33.0520 and 5516.34.0520.

[17] Category 440–M: only HTS numbers 6203.21.0030, 6203.23.0030, 6205.10.1000, 6205.10.2010, 6205.10.2020, 6205.30.1510, 6205.30.1520, 6205.90.3020, 6205.90.4020 and 6211.31.0030.

[18] Category 369–S: only HTS number 6307.10.2005.

[19] Category 863–S: only HTS number 6307.10.2015.

The Committee for the Implementation of Textile Agreements has determined that these actions fall 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.98–19611 Filed 7–22–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. 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 their opportunity to attend.

DATES: August 6–8, 1998.

TIME: August 6—Design and Methodology Committee, 1:00–4:00 p.m. (open), Subject Area Committee #2, 3:00–5:00 p.m., (open); and Executive Committee, 5:00–6:00 p.m., (open), 6:00–7:00 p.m., (closed). August 7—Full Board, 8:30–10:00 a.m., (open); Subject Area Committees #1, 10:00 a.m.–12:00 Noon, (open); Achievement Levels Committee 10:00 a.m.–12:00 Noon, (open); Reporting and Dissemination Committee, 10:00 a.m.–12:00 Noon, (open); Full Board, 12:00 noon–4:30 p.m., (open). August 8—Full Board, 9:00 a.m. until adjournment, approximately 12:00 Noon, (open).

LOCATION: Washington Court Hotel, 525 New Jersey Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Marty Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under Public Law 105–78, the National Assessment Governing Board is also granted exclusive authority over developing the Voluntary National Tests

pursuant to contract number RJ97153001.

On Thursday, August 6, there will be a meeting of three committees of the Governing Board. The Design and Methodology Committee will meet in open session from 1:00–4:00 p.m. to take action on the Validity Research Agenda, the policies on Voluntary National Tests Pilot Testing, and VNT Accommodations. The Committee will hear briefings on design issues pertaining to the VNT and NAEP.

The Subject Area Committee #2 will meet in open session from 3:00–5:00 p.m. The Committee will receive an update on the NAEP 2000 assessments, the math content, and VNT item development issues and timelines. The Committee will take action on the AIR Work Plan for Calculator Access and Use.

The Executive Committee will meet on August 6 from 5:00 to 6:00 p.m. in open session. In the open session from 5:00–6:00 p.m., the Executive Committee will be briefed by staff on the following items: NAEP and the Voluntary National Tests projects, the status of the grant program for secondary analysis of the NAEP data, and NAEP redesign issues.

The Executive Committee will hold a partially closed meeting on August 6, from 6:00–7:00 p.m., to discuss the development of cost estimates for current and future contract initiatives for NAEP.

Also during, the same closed session, the Executive Committee will discuss processed modifications in the Voluntary National Tests contract to make decisions regarding exercising the second option year of the contract. These matters concerning the NAEP and Voluntary National Tests contracts must be discussed in closed session because public disclosure of this information would likely have an adverse financial effect on these programs. The discussion of this information would be likely to significantly frustrate implementation of proposed agency actions if conducted in open session. Such matters are protected by exemption 9(B) of Section 552b(c) of Title 5 U.S.C.

On August 7, the full Board will convene in open session beginning at 8:30 a.m. The agenda for this session of the full Board meeting includes approval of the agenda, a report from the Executive Director, and an update on the NAEP project. This session will conclude with a presentation by representatives of the teacher's unions on the Teacher Perspective on NAEP and Voluntary National Tests.

Between 10:00 a.m. and 12:00 noon, there will be open meetings of the following committees: Achievement Levels, Reporting and Dissemination, and Subject Area Committee #1. The Achievement Levels Committee will hear a report on the result of the Field Trials in the civics and writing assessments. The Committee will take action on the NAEP Design document. At 11:00 a.m. the Committee will meet jointly with the Design and Methodology Committee to hear a briefing on linking issues regarding the Voluntary National Tests.

Agenda items for the Reporting and Dissemination Committee include review of schedule and plans for release of future NAEP reports; review of plans for the reporting of—district-level results from existing state samples and private school results; review of the NAGB policy issues on reporting and dissemination of the National Assessment, namely rank-ordering of state-by-state data and primacy of achievement-level results. The Committee will hear briefings on the plans for public hearings on VNT issues, and work-plan activities regarding the reporting and the utilization of VNT data.

Subject Area Committee #1 will receive an update on NAEP assessment activities and VNT item development issues and timeline. The Committee will take action on the AIR proposal for determining readability of the VNT.

The full Board will reconvene at 12:00 noon. The agenda items during this period include briefings on the following: National Academy of Sciences Linking Study; Discussion of the NAS Letter Report on VNT Item Development, NCES Task Force on State Participation in NAEP; and an Update on the Voluntary National Tests project. The Board recess is scheduled for 4:30 p.m.

On Saturday, August 8, the full Board will meet in open session from 9:00 a.m. until adjournment, approximately 12:00 noon. The agenda for this session is an update on the Voluntary National Tests project and the presentation of reports from the various Board committee meetings.

A summary of the activities of the closed and partially closed sessions and other related matters which are informative to the public and consistent with the policy of the section 5 U.S.C. 552b(c), will be available to the public within 14 days after the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, D.C., from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 98–19586 Filed 7–22–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–661–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

July 17, 1998.

Take notice that on July 10, 1998, Koch Gateway Pipeline Company (Koch Gateway), Post Office Box 1478, Houston, Texas 77251–1478, filed a request with the Commission in Docket No. CP98–661–000, pursuant to Sections 157.205, and 157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to operate as a jurisdictional facility in interstate commerce a meter station previously installed, operated and placed in service under Section 311(a) of the Natural Gas Policy Act (NGPA) and Section 284.3(c) of the Commission's regulations authorized in blanket certificate issued in Docket No. CP82–430–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Koch Gateway proposes to operate as a jurisdictional facility a two-inch meter station constructed under 311(a) of the NGPA, to facilitate delivery of natural gas on behalf of Willmut Gas and Oil Company (Willmut), a local distribution company in Covington County, Mississippi to Blaine Asphalt, Inc. (Blaine), a end user. Koch states that presently the meter station is limited solely for gas transportation under section 311 of the NGPA. Operation of the facilities for other than NGPA purposes would provide increased access to shippers utilizing Natural Gas Act service and provide Willmut the ability to obtain additional flexibility in acquiring gas supplies. Koch states that once this delivery point is certificated as a jurisdictional facility, Willmut will be able to receive gas shipped to this point pursuant to jurisdictional open-access transportation agreements as well as Section 311 agreements. Koch reports that Willmut estimates its peak day and average day requirements for this delivery point be 1,630 MMBtu and 104

MMBtu, respectively. Koch further reports that Willmut reimbursed Koch Gateway approximately $53,000 for construction costs.

Any person or the Commission's staff may, within 54 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filled within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19590 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–654–000]

Mississippi River Transmission Corporation; Notice of Request Under Blanket Authorization

July 17, 1998.

Take notice that on July 6, 1998, Mississippi River Transmission Corporation (MRT), 1111 Louisiana Street, Houston, Texas 77002, filed in Docket No. CP98–654–000 a request pursuant to Sections 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for the abandonment, construction and operation of certain facilities in St. Louis, Missouri, under MRT's blanket certificate issued in Docket No. CP98–482–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, MRT proposes to relocate facilities by abandoning a 6-inch delivery tap and installing and operating a new 4-inch delivery tap on MRT's St. Louis Line to serve Laclede Gas, a local distribution company in St. Louis, Missouri. MRT states that the total estimated volumes to be delivered to these facilities are 5,000 MMBtu annually and 15 MMBtu on a peak day. The total estimated cost of the relocation is $100,477.

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 therefor, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19589 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3096–000]

Pepco Services, Inc.; Notice of Issuance of Order

July 17, 1998.

Pepco Services, Inc. (Pepco Services); a wholly-owned subsidiary of Potomac Capital Investment Corporation which is, in turn, a wholly-owned subsidiary of Potomac Electric Power Company, filed an application for Commission authorization to engage in the marketing of energy and power at wholesale and the brokering of energy and capacity at wholesale, and for certain waivers and authorizations. In particular, Pepco Services requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Pepco Services. On July 16, 1998, the Commission issued an Order Accepting For Filing Proposed Market-Based Rates (Order), in the above-docket proceeding.

The Commission's July 16, 1998 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (C), (D), and (F):

(C) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Pepco Services should file a motion to intervene or protest with the Federal Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(D) Absent a request to be heard within the period set forth in Ordering Paragraph (C) above, Pepco Services is hereby authorized to issue securities and assume obligations and liabilities as guarantor, indorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of Pepco Services, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(F) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Pepco Service's issuances of securities or assumptions of liabilities * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 17, 1998.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19596 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–662–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

July 17, 1998.

Take notice that on July 10, 1998, Tennessee Gas Pipeline Company (Tennessee), 1001 Louisiana, Houston, Texas 77002, filed in Docket No. CP98–662–000 a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon a sales tap in Jefferson Davis Parish, Louisiana under Tennessee's blanket certificate issued in Docket No. CP82–413–000 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.

The tap had been used for a direct sale of natural gas for agricultural purposes since an in-service date of

March 17, 1967. Tennessee states that the meter has been inactive for some time and that no customer is being serviced by the farm tap.

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 therefor, the proposed activity is filed within the time allowed therefor, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19591 Filed 7–22–98; 8:45am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–663–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

July 17, 1998.

Take notice that on July 10, 1998, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–633–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to convert an existing receipt point, located in Hancock County, Mississippi, to a delivery point in order to provide transportation service to Entex, a Division of NorAm Energy Corporation (Entex), under Tennessee's blanket certificate issued in Docket No. CP82–413–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee proposes, at Entex's request, to convert an existing receipt point, located on its system at approximately Mile Post 530-2+0.10 on Tennessee's 36-inch Delta Portland Line 500–2 in Hancock County, Mississippi, to a delivery point in order to provide a firm transportation service up to a proposed maximum of 500 to 7,000 dekatherms per day to Entex.

Tennessee states that it will convert the inactive 4-inch receipt meter (#1–1804–1), connected inactive in May 1987) to a delivery meter by reversing the existing 4-inch check valve and installing electronic gas measurement (EGM). Tennessee declares that the existing meter site and interconnecting pipe are within their Station 530 fee property; the meter is owned by Entex. Tennessee asserts that Entex will perform the necessary land improvements and provide and maintain an all-weather access road to the site, as well as install, own, and maintain the measurement facilities and will provide electrical service for the measurement facilities. Tennessee asserts that they will operate the measurement facilities and continue to own, operate, and maintain the side valve assembly as well as install, own, operate, and maintain the EGM, while Entex will continue to own, operate, and maintain the interconnecting pipe.

Tennessee states that Entex will reimburse them for Tennessee's share of the project cost, which is approximately $29,600. Tennessee asserts that the proposed modification is not prohibited by its tariff, and that it has sufficient capacity to accomplish deliveries at the delivery point without detriment or disadvantage to Tennessee's 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 therefor, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19592 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–9–002]

Warren Transportation, Inc.; Notice of Filing

July 17, 1998.

Take notice that on July 13, 1998, Warren Transportation, Inc. (Warren) filed revised standards of conduct in response to a June 12, 1998 Order on Standards of Conduct. 83 FERC ¶ 61,297 (1998).

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 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions to intervene or protest should be filed on or before August 3, 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19588 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3689–000, et al.]

Commonwealth Edison Company, et al.; Electric Rate and Corporate Regulation Filings

July 15, 1998.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Edison Company Commonwealth Edison Company of Indiana, Inc.

[Docket No. ER98–3689–000]

Take notice that on July 10, 1998, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc. (ComEd) tendered for filing revisions to ComEd's Power Sales and Reassignment of Transmission Rights Tariff (PSRT). The revised PSRT would permit another transmission provider to avoid interrupting or otherwise

curtailing transmission service to its transmission customers when the other transmission provider determines that such curtailment or interruption could be avoided in whole or in part if ComEd were to operate its generating units out of economic order or if ComEd were to forego certain off-system purchases or sales. In conjunction with a revision to ComEd's open access transmission tariff (OATT) accepted by the Commission on May 13, 1998 in Docket No. ER98–2279, ComEd proposes to provide this new service as part of a one-year experiment with the goal of reducing the incidents of transmission loading relief in the upper Midwest and facilitating a competitive market. ComEd proposes to include information regarding the actual operation of PSRT Schedule in the interim and final reports that ComEd will be submitting in Docket No. ER98–2279.

ComEd states that it has served a copy of this filing on the Illinois Commerce Commission and the Indiana Regulatory Commission. Copies of this filing will be posted in accordance with the Commission's regulations in 18 CFR 35.2.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Company

[Docket No. ER98–3691–000]

Take notice that on July 10, 1998, Wisconsin Electric Power Company (Wisconsin Electric) tendered for filing an electric service agreement under its Market Rate Sales Tariff (FERC Electric Tariff, Original Volume No. 8) with Tractebel Energy Marketing, Inc. (Tractebel). Wisconsin Electric respectfully requests an effective date of June 23, 1998, to allow for economic transactions.

Copies of the filing have been served on Tractebel, the Michigan Public Service Commission, and the Public Service Commission of Wisconsin.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. South Carolina Electric & Gas Company

[Docket No. ER98–3692–000]

Take notice that on July 10, 1998, South Carolina Electric & Gas Company (SCE&G) submitted service agreements establishing Oglethorpe Power Corporation (OPC), Sonat Power Marketing L.P. (SPM), Southern Company Services, Inc. (SCS), and The Energy Authority, Inc. (TEA) as customers under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreements. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon OPC, SPM, SCS, and TEA and the South Carolina Public Service Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. California Independent System Operator Corporation

[Docket No. ER98–3693–000]

Take notice that on July 10, the California Independent System Operator Corporation (ISO) tendered for filing a Meter Service Agreement for ISO Metered Entities between the ISO and Ormond Beach Power Generation, L.L.C. (Ormond Beach) for acceptance by the Commission.

The ISO states that this filing has been served on Ormond Beach and the California Public Utilities Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. PP&L, Inc.

[Docket No. ER98–3694–000]

Take notice that on July 10, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated July 1, 1998, with Merchant Energy Group of the Americas, Inc. (MEGA) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds MEGA as an eligible customer under the Tariff.

PP&L requests an effective date of July 10, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to MEGA and to the Pennsylvania Public Utility Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Cinergy Services, Inc.

[Docket No. ER98–3695–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Amendment No. 1, dated July 1, 1997 between Energy Services, Inc. (Enron Power Marketing, Inc.) and Cinergy.

The Amendment No. 1 of the Service Agreement has a new section for the title to the power purchased shall be deemed to have transferred in Nevada.

Cinergy requests an effective date of one day after this Amendment No. 1 of the Service Agreement.

Copies of the filing were served on Energy Services, Inc., the Texas Public Utility Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Cinergy Services, Inc.

[Docket No. ER98–3696–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Amendment No. 1, dated July 1, 1997 between Energy Services, Inc. (Washington Water Power Company) and Cinergy.

The Amendment No. 1 of the Service Agreement has a new section for the title to the power purchased shall be deemed to have transferred in Nevada.

Cinergy requests an effective date of one day after this Amendment No. 1 of the Service Agreement.

Copies of the filing were served on Energy Services, Inc., the Washington Utilities and Transportation Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER98–3697–000]

Take notice that on July 10, 1998, Ohio Edison Company tendered for filing on behalf of itself and Pennsylvania Power Company, Service Agreements with Merchant Energy Group of the Americas, Avista Energy, and Northern/AES Energy, L.L.C., under Ohio Edison's Power Sales Tariff. This filing is made pursuant to Section 205 of the Federal Power Act.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Cinergy Services, Inc.

[Docket No. ER98–3698–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Amendment No. 1, dated July 1, 1997 between Energy

Services, Inc. (Idaho Power Company) and Cinergy.

The Amendment No. 1 of the Service Agreement has a new section for the title to the power purchased shall be deemed to have transferred in Nevada.

Cinergy requests an effective date of one day after this Amendment No. 1 of the Service Agreement.

Copies of the filing were served on Energy Services, Inc., the Idaho Public Utilities Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER98–3701–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. and Southern Energy Trading and Marketing, Inc., tendered for filing a name change request to the Interchange Agreement designated as Rate Schedule FERC No. 44, dated May 1, 1996 Southern Energy Marketing, Inc. to Southern Energy Trading and Marketing, Inc.

Copies of the filing were served on Southern Energy Trading and Marketing, Inc., the Georgia Public Service Commission, the Kentucky Public Service Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER98–3702–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. and Ohio Edison Company (OE) tendered for filing a request that all of OE's obligations be assumed by FirstEnergy Corp., the parent company.

Copies of the filing were served on FirstEnergy Corp., the Kentucky Public Service Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER98–3703–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. and Market Responsive Energy, Inc. (MREI) tendered for filing a request that all of MREI's rights and interest be assumed by FirstEnergy Trading and Power Marketing, Inc.

Copies of the filing were served on FirstEnergy Trading and Power Marketing, Inc., the Kentucky Public Service Commission, the Michigan Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Public Service Company of New Mexico

[Docket No. ER98–3704–000]

Take notice that on July 10, 1998, Public Service Company of New Mexico (PNM) tendered for filing a mutual netting/close-out agreement between PNM and Statoil Energy Marketing, Inc. (Statoil). PNM requested waiver of the Commission's notice requirement so that service under the PNM/Statoil netting agreement may be effective as of July 10, 1998.

Copies of the filing were served on Statoil and the New Mexico Public Utility Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER98–3705–000]

Take notice that on July 10, 1998, Cinergy Services, Inc. (Cinergy) tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff entered into between Cinergy and Consumers Power Company (Michigan Companies).

Cinergy and Michigan Companies are requesting an effective date of June 15, 1998.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. American Electric Power Service Corporation

[Docket No. ER98–3706–000]

Take notice that on July 10, 1998, the American Electric Power Service Corporation (AEPSC), tendered for filing service agreements under the Wholesale Market Tariff of the AEP Operating Companies (Power Sales Tariff). The Power Sales Tariff was accepted for filing effective October 10, 1997, and has been designated AEP Operating Companies' FERC Electric Tariff Original Volume No. 5. AEPSC requests waiver of notice to permit the service agreements to be made effective for service billed on or after June 12, 1998, with the exception of the service agreement with East Kentucky Power Cooperative, Inc., where an effective date of June 2, 1998, has been requested.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commission of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. PP&L, Inc.

[Docket No. ER98–3707–000]

Take Notice that on July 10, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated July 7, 1998, with Entergy Power Marketing Corp. (EPMC) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds EPMC as an eligible customer under the Tariff.

PP&L requests an effective date of July 10, 1998 for the Service Agreement.

PP&L states that copies of this filing have been supplied to EPMC and to the Pennsylvania Public Utility Commission.

Comment date: July 30, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19587 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

[Project No. 2105–061 California]

Pacific Gas and Electric Company; Notice of Availability of Environmental Assessment

July 17, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has prepared an environmental assessment (EA) for an application to permit non-project use of project lands on Lake Almanor, one of the project reservoirs. Pacific Gas and Electric Company (licensee) proposes to permit Moonspiners Report to construct a boat ramp and 6-slip boat dock in Big Cove.

In the EA, staff concludes that approval of the licensee's proposal would not constitute a major Federal action significantly affecting the quality of the human environment. The Upper North Fork Feather River Project is located on the Upper North Fork Feather River in Plumas County, California.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA are available for review at the Commission's Reference and Information Center, Room 2–A, 888 North Capitol Street, NE, Washington, DC 20426.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19594 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Request to Amend the Approved Reservoir Management Plan

July 17, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Request to Amend the Approved Reservoir Management Plan.

b. *Project No:* 2067–013.

c. *Date Filed:* July 9, 1998.

d. *Applicant:* Oakdale and South San Joaquin Irrigation Districts.

e. *Name of Project:* Tulloch Hydroelectric Project.

f. *Location:* Tuolumne and Calaveras Counties, California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Steve Felte, Tri-Dam Project, P.O. Box 1158, Pinecrest, CA 95364, (209) 965–3996.

i. *FERC Contact:* Jean Potvin, (202) 219–0022.

j. *Comment Date:* August 28, 1998.

k. *Description of Project:* The licensees have filed a request to amend its approved Reservoir Management Plan. The licensees have filed this amendment to clarify language in the plan to be consistent with Article 39 of the project license, to update the approved plan to be consistent with the current physical conditions of the reservoir, and to change the amount of excavated material which can be removed from 1,000 cubic feet of material to 1,000 cubic yards of material.

1. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19593 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Preliminary Permit

July 17, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11618–000.

c. *Date Filed:* July 8, 1998.

d. *Applicant:* Red Rock Hydroelectric Development Company.

e. *Name of Project:* Red Rock.

f. *Location:* On the Des Moines River in Marion County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Mr. Thomas J. Wilkinson, Jr., 101 Second St., S.E.—Suite 100, Cedar Rapids, IA 52406, (319) 364–0900.

i. *FERC Contact:* Charles T. Raabe, (202) 219–2811.

j. *Deadline Date:* September 21, 1998.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Red Rock Dam and would consist of: (1) A new intake structure; (2) two 21-foot-diameter steel penstocks; (3) a powerhouse containing two generating units with a total installed capacity of 30–MW; (4) a tailrace; (5) a 6-mile-long transmission line; and (6) appurtenant facilities.

Applicant estimates that the average annual generation would be 110,000 MWh and that the cost of the studies to be performed under the terms of the permit would be $200,000. Project energy would be sold to municipalities in the state of Iowa and to other users.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the

Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST", "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Application specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–19595 Filed 7–22–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[6127–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Land Disposal Restrictions Surface Impoundment Study

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Land Disposal Restrictions Surface Impoundment Study. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 24, 1998.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, e-mail at *Farmer.Sandy@epa.gov,* or download off the Internet at *http://www.epa.gov/icr/icr.htm* and refer to EPA ICR No. 1841.01.

SUPPLEMENTARY INFORMATION:

Title: Land Disposal Restrictions Surface Impoundment Study. This is a new collection.

Abstract: Section 3004(g)(10) of the Resource Conservation and Recovery Act (RCRA) requires EPA to, among other things, conduct a study to characterize the risks to human health or the environment posed by management of formerly hazardous wastes (characteristic wastes which have been decharacterized) in Clean Water Act-regulated treatment systems. To the extent the study identifies any risks, EPA must also evaluate whether those risks are adequately addressed under existing Federal or State programs.

EPA will characterize risks based on information aggregated from a representative sample of actual sites located across the country. We will first need to administer a "screener" survey to a representative sample of facilities (approximately 2100) in order to locate those with surface impoundments that are within the study's scope. Then, for the first 345 facilities that respond positively to the "screener" (i.e., they have impoundments within the study's scope), we would need to collect current, site-specific information which will be available only from the facility owners/operators. These 345 facilities would be receiving a detailed information-gathering questionnaire. In order to reduce the burden on facilities, EPA will also be collecting as much information as possible from data sources in the public domain.

EPA would like to correct several things from the February 10, 1998 **Federal Register** document and the accompanying background document for that document. First, it was implied that the risk assessments for this study would be site-specific. EPA wishes to clarify that there will be one generic risk analysis based on the aggregation of site-specific data. The specific analytical approach will generate probabilities of specific risks, based on the responses

from the facilities to the information-gathering questionnaire. Each facility's weight in the analysis would dictate the probability that its surface impoundment characteristics would be selected in a Monte-Carlo analytical framework; model inputs that tend to correlate (e.g., hydrogeological settings and waste types) would be linked so that each model run reflects situations that could actually occur. With this framework, the specific combinations of model inputs that relate to high-risk situations (e.g., a certain chemical managed in a surface impoundment of a particular design, operated in a certain way, or located in a specific type of setting) can be identified as "risk drivers." Facility identities will not be part of the final results. Second, in the background document to the February 10, 1998 **Federal Register** document, EPA stated incorrectly that the threshold for determining risks of concern would be "if an individual's probability of developing cancer due to an exposure to the constituent in question is estimated to be in the range of 1 in 10,000 * * *" In fact, EPA stated in the April 30, 1997 peer review of the study methodology that an individual cancer risk in the range of 1×10^{-5}, or 1 in 100,000, would be of concern. The 1 in 100,000 level is the intended threshold for which the study is attempting to estimate risks.

Responding to both the "screener" questionnaire and the larger information-gathering questionnaire will be mandatory, under the authority of RCRA sections 3004(g)(10) and 3007(a). Respondents can claim their responses as RCRA Confidential Business Information (CBI). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d) soliciting comments on this collection of information was published on February 10, 1998 (63 FR 6752); 7 comments were received. EPA's responses to these comments are available in the docket for this notice.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 84.5 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: 2100.

Estimated Number of Respondents: 2100.

Frequency of Response: 1.

Estimated Total Annual Hour Burden: 14528 hours.

Estimated Total Annualized Cost Burden: $10,794.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1841.01 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OP Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 (or E-Mail Farmer. Sandy@epamail.epa.gov);
and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: July 16, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–19516 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6128–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Evaluation of the Burden of Waterborne Disease Within Communities in the United States

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Evaluation of the burden of waterborne disease within communities in the United States. *EPA ICR Number:* 1727.02. *OMB Control Number:* 2080–0050. Current expiration date: July 31, 1998. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Sandy Farmer at EPA by phone at (202) 260–2740, by E-mail at farmer.sandy@epamail.epa.gov, or download off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1727.02.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the burden of waterborne disease within communities in the United States (OMB Control Number: 2080–0050, EPA ICR Number: 1727.02) expiring July 31, 1998. This is a request for extension of a currently approved collection.

Abstract: The proposed study will be conducted by the Epidemiology and Biomarkers Branch, Human Studies Division, National Health and Environmental Effects Research Laboratory, Office of Research and Development, U.S. EPA. Participation in this collection of information is strictly voluntary. The Branch will conduct a feasibility study of water utilities and a health study of individuals served by targeted drinking water utilities.

Drinking water utilities serving populations greater than 15,000 will be asked to provide information on the utility and results of monitoring activities. The information will be used to assess the feasibility of conducting an environmental health study to evaluate the burden of water-borne disease in the community it serves. A utility representative will be interviewed to gather information on: miles of distribution pipe, storage capacity, quantity of source water, the availability of the previous year's monitoring records, and the utilities' willingness to participate. The water utility will provide annual reports describing the monthly mean and range: water temperature, turbidity, particle counts, pH, color, total and fecal coliforms, heterotrophic plate count, total organic carbon, chlorine residual (free and total), total organic halides, total

trihalomethanes, total haloacetic acids, viruses, *Giardia*, and *Cryptosporidium*.

In the health studies, approximately 1000 households will be randomly selected from each community. Eligibility for households to participate will include residence of one or more children between the ages of two and ten years as children are the most sensitive population for illnesses of interest. We expect that each household has, on the average 2.2 members for a total of approximately 2200 individuals participating in each study. Demographic information and a short health history will be requested from household members at the beginning of each study. A representative from each household will be asked to fill out a monthly health questionnaire for each family member for a total of eighteen months. The monthly health information requested includes a checklist for upper respiratory illness, gastrointestinal illness, fever, and severity of illness. Care will be taken to maintain participant confidentiality; this work is mandated by the Safe Drinking Water Act of 1996.

The information will be used to estimate the burden of waterborne disease in communities within the United States (US). Health data obtained from the household checklists will be compared with the corresponding monitoring data at the water utility to determine whether any increase in symptoms is associated with higher levels of contaminants. Overall illness rates will be measured. Specific relationships between microorganisms and disease may be developed by linking microorganisms found in the water with those found in symptomatic people.

The information is being collected as part of a research program to support the Office of Water in estimating the burden of waterborne disease in the US as mandated under the Safe Drinking Water Act Amendments of 1996, section 1458. This study will also provide information on the level of disease associated with microorganisms found in the drinking water. The information could potentially be used by other laboratories in the Office of Research and Development such as the National Risk Management Laboratory (Cincinnati) and the National Exposure Research Laboratory (Cincinnati). The information may also be used in comparison analyses by scientists in government or academia who are conducting similar types of studies. There is no maintenance of records required under this ICR. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 2/5/98 (63 FR 5947–5949); two comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 5.77 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Utilities serving more than 15,000 population or individuals living within a community served by the utility.

Estimated Number of Respondents: 1400.

Frequency of Response: Varies.

Estimated Total Annual Hour Burden: 8,080 hours.

Estimated Total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1727.02 and OMB Control No. 2080–0050 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503;

Dated: July 17, 1998.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 98–19655 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6128–2]

Technical Workshop on Exposure-Duration and Toxicity Relationships

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: EPA is announcing a meeting organized and convened by Eastern Research Group, Inc., a contractor to EPA's Risk Assessment Forum, for external scientific peer consultation on the relationship of exposure-duration and toxicity. The meeting is being held to discuss methods under development or currently in use by EPA to characterize exposure-duration relationships and to explore how to model these relationships with respect to risk assessment.

DATES: The meeting will begin on Wednesday, August 5, 1998 at 8:30 a.m. and end on Thursday, August 6, 1998 at 5:00 p.m. Members of the public may attend as observers.

ADDRESSES: The meeting will be held at the Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, Virginia 22202. Since seating capacity is limited, please contact Eastern Research Group, Inc., Tel.: (781) 674–7374, or E-mail confmail@erg.com, by July 27, 1998 to attend the meeting as an observer.

FOR FURTHER INFORMATION CONTACT: For technical inquires, contact Dr. Gary Kimmel, U.S. EPA, Office of Research and Development (8623–D) U.S. EPA, 401 M Street S.W., Washington DC., 20460. Tel.: (202) 564–3308.

SUPPLEMENTARY INFORMATION: Current risk assessment procedures are typically based on overall daily exposure levels, and tend to emphasize effects resulting from continuous exposures over a lifetime. This basis is widely recognized to be an oversimplification, and there has been an increasing realization that exposures are more likely to be experienced as bursts or spikes, or intermittent exposures of varying levels. The complexities of exposure effects on toxic responses require consideration of the entire exposure profile, including the timing, duration, and intermittent nature of exposures reflecting realistic scenarios encountered in practical

settings. The proper metric for exposure may be highly dependent on the pharmacokinetic properties of the chemical or exposure in question, and the toxic effects considered in models must be carefully chosen to reflect the sensitive endpoints based on the exposure characteristics. Models have been developed over the last decade which begin to address the effect of duration of exposure in addition to exposure levels; however, most of these models do not incorporate mechanistic information. In addition, only limited work has been done on developing efficient designs for studying dose-rate effects, and these designs tend to be simplistic.

The Agency's Risk Assessment Forum is beginning to examine how exposure-duration and toxicity relationships are or can be incorporated into the risk assessment process for less-than-lifetime exposures. This examination is an extension of efforts within EPA as well as collaborative work carried out with researchers from the Harvard School of Public Health. The next step in this examination of exposure-duration and toxicity relationships will build upon these prior efforts through a peer consultation workshop.

The workshop is being held for invited participants to discuss the current understanding of dose-duration relationships and their underlying mechanistic basis, which approaches can be used in modeling these relationships, and how to include these methods in risk assessment, and future directions in this area. During the meeting, several presentations will be made to provide specific examples of the various issues. The remainder of the meeting will be organized around breakout sessions that will discuss where current risk assessment approaches may be improved.

Dated: July 17, 1998.

William H. Farland,

Director, National Center for Environmental Assessment.

[FR Doc. 98–19654 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 95–116; DA 98–1265]

Telephone Number Portability

AGENCY: Federal Communications Commission.

ACTION: Notice; approval of provisioning method and extension of deadlines.

SUMMARY: Notice is hereby given that In the Matter of Telephone Number Portability, Common Carrier Docket No. 95–116, DA 98–1265, released June 26, 1998, Cincinnati Bell Telephone's (CBT's) provision of Local Number Portability (LNP) in the Cincinnati Metropolitan Statistical Area (MSA) by choosing only the Midwest Number Portability Administration Center is approved. This action is needed so CBT can efficiently implement LNP in the Cincinnati MSA. The intended effect of this action is to reduce LNP implementation costs and complexity for CBT and other carriers in the Cincinnati MSA. Notice is also given that several carriers' requests for delays in the implementation of Phase III and Phase IV LNP are granted. In addition, the Commission grants AT&T Corp.'s and Time Warner Communications Holdings, Inc.'s related petitions to waive the requirements that carriers file petitions to extend the time to file an LNP implementation extension request 60 days prior to the deadline for which an extension is sought. These actions are needed because carriers seek more time to implement LNP due to circumstances beyond their control. The intended effect of these grants is to allow carriers more time to implement LNP without threatening network reliability.

A copy of the order is available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM.

FOR FURTHER INFORMATION CONTACT: Jared Carlson, (202) 418–2350, jcarlson@fcc.gov, or Patrick Forster, (202) 418–7061, pforster@fcc.gov at the Network Services Division, Common Carrier Bureau.

Federal Communications Commission.

Anna M. Gomez,

Deputy Chief, Network Services Division Common Carrier Bureau.

[FR Doc. 98–19639 Filed 7–22–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

FEDERAL REGISTER NUMBER: 18998.

PREVIOUSLY ANNOUNCED DATE & TIME: Tuesday, July 21, 1998—10:00 a.m., Meeting Closed to the Public.

This Meeting Has Been Cancelled.

DATE & TIME: Tuesday, July 28, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.E., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, July 30, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W. Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1998–14: Eugene F. Douglass, and Eugene F. Douglass for U.S. Senate.

Advisory Opinion 1998–15: Fitzgerald for Senate, Inc., by Richard A. Roggeveen, Treasurer.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–19793 Filed 7–21–98; 11:13 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 98–13]

Tak Consulting Engineers v. Sam Bustani aka Samuel Bustani et al.; Notice of Filing of Complaint and Assignment

Notice is given that a compliant filed by TAK Consulting Engineers ("Complaint") against Sam Bustani aka Samuel Bustani aka Saeid Bustain aka Sam Bustani Maralan aka Saeid Maralan, aka Sam Abadi, Atlas World Line, Inc., Altas World Line International Shipping Co., A Atlas World Line International Shipping, Col., World Line Shipping, Inc., World Line International Shipping Co., United Cargo, United Cargo Global Transportation, United Cargo International Shipping Co., and United Traiding ("Respondents") was served July 17, 1998. Complainant alleges that

Respondents violated sections 10(b)(1), (5), (6), (10), (12), and (14) and 10(d) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(b)(1), (5), (6), (10), (12), and (14) and (d)(1), by providing a quote under one name for the shipment of tire recycling equipment from San Antonio, Texas to Bubai, U.A.E., demonstrating authority to act as a non-vessel operating common carrier by producing the title page of a tariff filed in another name, making threats to Complaint and one of Complaint's employees for Complainant's decision not to use Respondents for the shipment, then trying to sell tire-recycling machinery directly to Complainant's client, threatening to sue Complainant's colleagues and customers and acting as an unlicensed NVOCC or freight forwarder.

This proceeding has been assigned to the office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by July 19, 1999, and the final decision of the Commission shall be issued by November 16, 1999.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 98–19585 Filed 7–22–98; 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 August 6, 1998.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Swarts Family Investment Company, LLC, Oklahoma City, Oklahoma; to acquire voting shares of Guaranty Bancshares, Inc., Oklahoma City, Oklahoma, and thereby indirectly acquire voting shares of Guaranty Bank & Trust Company, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, July 17, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19606 Filed 7–22–98; 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 otherwise 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 August 17, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Norwest Corporation, Minneapolis, Minnesota (Norwest); to acquire and merge with Wells Fargo & Company, San Francisco, California (Wells Fargo), and thereby acquire all of the bank subsidiaries of Wells Fargo, which include Wells Fargo Bank, N.A., San Francisco, California; Wells Fargo Bank (Texas), N.A., Houston, Texas; Wells Fargo Bank (Arizona), N.A., Phoenix, Arizona; Wells Fargo Bank, Ltd., Los Angeles, California; Wells Fargo Central Bank, Calabasas, California; and Wells Fargo HSBC Trade Bank, N.A., San Francisco, California. On consummation of the proposed transaction, Norwest Corporation would be renamed Wells Fargo & Company. Norwest would continue to control all of its existing bank and nonbank subsidiaries.

In connection with the proposed transaction, Norwest also proposes to acquire all of the nonbank subsidiaries of Wells Fargo and to engage, directly or indirectly through such nonbank subsidiaries, in a variety of nonbanking activities that previously have been determined to be permissible for bank holding companies. The nonbanking companies that Norwest proposes to acquire are listed in the notice filed with the Board and include Crocker Life Insurance Company, Concord, California, and Wells Fargo Equity Capital, Inc., San Francisco, California. The nonbanking activities of the companies to be acquired also are listed in the notice and include extending credit and servicing loans, pursuant to 12 CFR 225.28(b)(1); and acting as principal, agent, or broker in connection with the sale of credit-related insurance, pursuant to 12 CFR 225.28(b)(11); and engaging in all activities that Wells Fargo currently is authorized to conduct.

In connection with the proposed transaction, Norwest also has provided notice under 12 C.F.R. 211.5(c)(3) to acquire FIL Holding Company, and First Interstate Services Co. (UK). London, United Kingdom.

Norwest also has applied to acquire an option to purchase up to 19.9 percent of the outstanding shares of Wells Fargo's common stock. The option would expire upon consummation of the merger. **Comments regarding this**

application must be received not later than August 21, 1998.

B. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Zions Bancorporation, Salt Lake City, Utah; to merge with The Commerce Bancorporation, Seattle, Washington, and thereby indirectly acquire the Commerce Bank of Washington, N.A., Seattle, Washington.

Board of Governors of the Federal Reserve System, July 17, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19607 Filed 7–22–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 6, 1998.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Arvest Bank Group, Inc., Bentonville, Arkansas; and its wholly owned subsidiary First Bancshares, Inc., Bartlesville, Oklahoma to acquire State Bank & Trust, Tulsa, Oklahoma, and thereby engage in the operation of a thrift through the conversion of an existing national bank, State Bank & Trust, N.A., Tulsa, Oklahoma, to a federally chartered savings bank, to be named State Bank & Trust, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 17, 1998.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 98–19605 Filed 7–22–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL TRADE COMMISSION

[File No. 971–0110]

South Lake Tahoe Lodging Association; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before September 21, 1998.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: William Baer, FTC/H–374, Washington, DC 20580. (202) 326–2932.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for July 20, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, NW., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission ("Commission") has accepted, subject to final approval, an Agreement Containing Consent Order ("Order") from South Lake Tahoe Lodging Association ("SLTLA" or "Proposed Respondent"). The proposed Order is designed to prevent the recurrence of anticompetitive practices engaged in by SLTLA and its members in connection with an effort by the Proposed Respondent and its members to eliminate or restrict the use of signs advertising the prices at which its members provided lodging services in the South Lake Tahoe, California, area.

The Agreement Containing Consent Order, if finally accepted by the Commission, would settle charges that Proposed Respondent's conduct violated Section 5 of the Federal Trade Commission Act by eliminating one form of competition between lodging establishments in the South Lake Tahoe area and by making it more difficult for consumers to get accurate information about the prices for lodging in that area. The proposed complaint, described below, relates the basis for this relief.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Proposed Complaint

According to the Commission's proposed complaint, SLTLA is a nonprofit corporation whose members are operators of lodging establishments in the South Lake Tahoe, California, area. SLTLA's associate members include operators of lodging establishments and related businesses in the South Lake Tahoe, California, area and the adjacent areas of Nevada. According to the proposed complaint, SLTLA's members and associate

members constitute approximately 70 percent of the available lodging in the South Lake Tahoe area. The Commission's complaint alleges that SLTLA and its members entered into an agreement to suspend the use of signs advertising prices for lodging. The evidence also shows that the primary purpose of the agreement was to increase the room rates charged for lodging in the South Lake Tahoe area of Northern California and Nevada and to end what members saw as a "destructive" price war on motel rooms in the South Lake Tahoe area by eliminating the posting of signs advertising the prices at which its individual members offer such lodging.

According to the proposed complaint, the effects of the agreement are that price competition among providers of lodging in the South Lake Tahoe area has been reduced, and consumers have been deprived of the benefits of readily available information about the price for lodging.

The Proposed Order

The proposed Order contains provisions designed to remedy the violations charged and to prevent the respondent from engaging in similar acts and practices in the future. Part II of the proposed order would prohibit SLTLA from carrying out, participating in, inducing, suggesting, urging, encouraging, or assisting any agreement, combination or conspiracy with its members, or agreement, combination or conspiracy with some of its members, to restrict the posting of signs advertising the prices at which its individual members offer lodging. Part II would not bar SLTLA from exercising rights protected under the First Amendment to the United States Constitution to petition any federal, state or local government executive agency or legislative body concerning legislation, rules, programs, or procedures, or to participate in any federal, state or local administrative or judicial proceeding.

The proposed order also requires the respondent to amend its corporate by-laws to incorporate by reference Paragraph II of this Order; to distribute a copy of the amended by-laws to each of its members; to provide a copy of the consent agreement and complaint to all of its current members and to any new members for a period of five (5) years; and to file one or more reports detailing compliance with the order.

The purpose of this analysis is to invite public comment on the proposed order. This analysis is not intended to constitute an official interpretation of the agreement and proposed order or to modify their terms in any way.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–19678 Filed 7–22–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following special emphasis panel scheduled to meet during the month of August 1998:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: August 3–4, 1998, 8:00 a.m.

Place: Doubletree Hotel, 1750 Rockville Pike, Room TBA, Rockville, Maryland 20852.

Open August 3, 1998, 8:00 a.m. to 8:15 a.m. Closed for remainder of meeting.

Purpose: This Panel is charged with conducting the initial review of grant applications requesting dissertation support for health care research undertaken as part of an academic program to qualify for a doctorate. Also individual post-doctoral fellowship applications will be reviewed.

Agenda: The open session of the meeting on August 3, from 8:00 a.m. to 8:15 a.m. will be devoted to a business meeting covering administrative matters. During the closed session, the panel will be reviewing and discussing grant applications. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members or other relevant information should contact Jenny Griffith, Committee Management Officer, Agency for health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1455 x 1036.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 16, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98–19553 Filed 7–22–98; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Special Emphasis Panel Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of the following special emphasis panel scheduled to meet during the month of August 1998:

Name: Health Care Policy and Research Special Emphasis Panel.

Date and Time: August 6, 1998, 2:00 p.m.

Place: Agency for Health Care Policy and Research, 2101 E. Jefferson Street, Suite 400, Rockville, MD 20852.

Open August 6, 1998, 2:00 p.m. to 2:15 p.m. Closed for remainder of meeting.

Purpose: To review and evaluate grant applications.

Agenda: The open session of the meeting on August 6, from 2:00 p.m. to 2:15 p.m., will be devoted to a business meeting covering administrative matters. During the closed session, the panel will be reviewing and discussing grant applications. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), the Administrator, AHCPR, has made a formal determination that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the grant applications. This information is exempt from mandatory disclosure.

Any wishing to obtain a roster of members or other relevant information should contact Jenny Griffith, Committee Management Officer, Office of Research Review, Education, and Policy, Agency for Health Care Policy and Research, Suite 400, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594–1455, x1036.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: July 16, 1998.

John M. Eisenberg,

Administrator.

[FR Doc. 98–19554 Filed 7–22–98; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 98101]

Expanded Use of Rapid HIV Testing, and Barriers to HIV Testing; Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal Year (FY) 1998

funds for a cooperative agreement program on the Expanded Use of Rapid HIV Testing, and Barriers to HIV Testing. This program addresses the "Healthy People 2000" priority area of HIV Infection.

The purpose of these studies is to evaluate barriers to HIV testing among persons at high risk for HIV, and to evaluate the expanded use of rapid HIV testing in a variety of public and private settings.

Applications in BOTH or EITHER of the following research areas may be submitted:

1. Studies evaluating the barriers to HIV testing among persons at high risk for HIV.

The purpose of these studies is to learn more about the use of HIV testing in personal prevention plans by interviewing persons at high risk for HIV infection who have not been tested for HIV, or persons who have not been tested recently despite ongoing risk. Of special interest are persons who may not access the health care system. These should include persons of various racial/ethnic backgrounds found by outreach to high-risk settings, or persons on the streets in areas with known high prevalence of HIV infection. The sample should be representative of all persons who are not getting tested even though they are at high risk. The study should be designed to address the following research questions:

a. What are the determinants of and barriers to getting tested for the high risk population? How can this population be segmented? What can be done to increase their likelihood of getting tested?

b. What will the preferences for different testing options be when the high risk population is offered: clinic-based counseling and testing; home collection kits with counseling and testing; and home test kits? What are the profiles of the segments which prefer each alternative?

2. Studies evaluating the expanded use of rapid HIV testing, including investigational tests, in a variety of public or private settings.

The purpose of these studies is to learn more about how individuals might use rapid HIV testing to prevent HIV infection and how programs might use rapid HIV testing to identify infected persons and refer them for care. This study should demonstrate that rapid HIV testing is reaching high-risk persons who might not otherwise be reached by existing testing services and that it is increasing the number of persons who learn their HIV serostatus.*

*For more information on the availability of licensed or candidate investigational rapid HIV tests, contact CDC at (404) 639–2090.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private nonprofit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Organizations described in section 501(c)(4) of the Internal Revenue Code of 1986 that engage in lobbying are not eligible to receive Federal grant/cooperative agreement funds.

Applicants are encouraged to collaborate with other organizations, such as State health departments, colleges, universities, research institutions, hospitals, correctional facilities, community organizations, and other public and private organizations (e.g., managed care organizations), to carry out project activities.

C. Availability of Funds

Approximately $1.1 million is available in FY 98 to fund approximately 4–6 awards. It is expected that the average award will be $200,000, ranging from $100,000 to $300,000. It is expected that the awards will begin on or about September 30, 1998 and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preference

Preference will be given to areas with high HIV prevalence and incidence. Geographic and population risk group diversity will also be considered.

D. Program Requirements

In conducting activities to achieve the purposes of the cooperative agreement, the recipient shall be responsible for the activities listed under 1. (Recipient Activities), and CDC shall be responsible for conducting activities listed under 2. (CDC Activities).

1. Recipient Activities

a. Develop the research study protocol and data collection forms.

b. Plan and conduct project activities and where appropriate, with the participation of state and local professional associations and health care providers and institutions serving, diagnosing, or providing treatment and care for persons with HIV/AIDS.

c. Promote the use of rapid HIV testing for HIV prevention and for linkage to care for infected persons by: (1) providing data and ongoing assistance to community planning groups; (2) disseminating data through publications and presentations.

d. Participate in project planning and implementation meetings with CDC and other collaborators, when appropriate.

e. Establish procedures to maintain the rights and confidentiality of all study participants.

f. Identify, recruit, obtain informed consent from participants (when appropriate), and enroll an adequate number of study participants as determined by study protocol and the program requirements.

g. Perform laboratory tests (when appropriate) and data analysis as determined in the study protocol.

h. Share data and specimens (when appropriate) with other collaborators to answer specific research questions.

i. Participate in multi-site data analysis and presentation and publication of research findings with collaborators, when appropriate.

j. Provide HIV counseling, appropriate to the risk of the population being studied, including referrals to needed services.

2. CDC Activities

a. Provide technical assistance in the design and conduct of the research. Provide technical assistance in the development of study protocols, consent forms, and data collection forms.

b. Assist in designing a data management system.

c. Assist in performance of selected laboratory tests.

d. Coordinate research activities among the different sites, when appropriate.

e. Assist in the analysis of research information and the presentation and publication of research findings.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. For those applying for more than one research area described in the "Purpose" section above, applicants should submit a separate application for each research area proposed. Each application will be evaluated based on the evaluation criteria listed below, so it is important to follow them in laying out your

program plan. The narrative should be no more than 10 double-spaced pages, printed on one side, and with one inch margins. Applicants should include an annualized, justified budget for the current (FY98) project period.

F. Submission and Deadline

Submit the original and five copies of PHS–398 (OMB Number 0925–0001) (adhere to the instructions on the Errata Instruction Sheet for PHS 398). Forms are in the application kit.

On or before August 23, 1998 submit the application to: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Announcement Number 98101, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., Mailstop E–15, Atlanta, Georgia 30305–2209.

If your application does not arrive in time for submission to the independent review group, it will not be considered in the current competition unless you can provide proof that you mailed it on or before the deadline (i.e., receipt from U.S. Postal Service or a commercial carrier; private metered postmarks are not acceptable).

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent reviewer group appointed by CDC.

1. Scientific Significance (15 Points)

Demonstrated scientific significance of the proposed study in that it provides data not otherwise available, and if appropriate, provides unique opportunities for evaluating the use of rapid HIV testing in various settings. Application should include a detailed review of the scientific literature pertinent to the study being proposed and specific research questions that will guide the research, goals and objectives for the project, and how findings can be used to guide prevention and control efforts.

2. Research Design (10 Points)

Appropriateness of the research design for addressing the specified research questions.

3. Capacity to Access (25 Points)

The extent to which the applicant demonstrates the capacity to access the relevant study population; ability to enroll appropriate number of study participants who are at high risk for HIV infection; ability to enroll a study population outside of the health care systems; extent to which size and characteristics of the study population proposed for enrollment are appropriate; investigator's experience in enrolling such persons in a culturally and linguistically appropriate manner; and letters of support from cooperating organizations that detail the nature and extent of such cooperation.

4. Experience (15 Points)

Experience in similar HIV prevention research, availability of qualified and experienced personnel, percentage-time commitments, duties, responsibilities of project personnel, and evidence of adequate facilities, equipment and plans for administration of the project.

5. Ability to Operationalize Proposed Study Methodology (Maximum of 30 Points for a and b, Below)

a. Application should include appropriate outcome measures; appropriate sampling schemes, sample size calculations, and handling of sampling biases; and plan for data collection; specific quantitative and qualitative analytic techniques to be used to answer the research questions. Where applicable, application should demonstrate capacity to obtain specimens and conduct testing, using appropriate quality assurance mechanisms. (15 points)

b. Comprehensive schedule for accomplishing the activities of the research and an evaluation plan that identifies methods and instruments for evaluating progress in designing and implementing the research objectives. Application should include time-phased and measurable objectives. (15 points)

6. Inclusion of Women, Ethnic, and Racial Groups (5 Points)

The quality of the plans to develop and implement the study, including the degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The proposed justification when representation is limited or absent.

c. A statement as to whether the design of the study is adequate to measure differences when warranted.

d. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

7. Human Subjects (not Scored)

Does the application adequately address the requirements of 45 CFR Part 46 for the protection of human subjects? (not scored)

____ YES ____ NO

Comments: _____

8. Budget (not Scored)

Budgets will be reviewed to determine the extent to which they are reasonable, clearly justified, consistent with the intended use of the funds, and allowable. All budget categories should be itemized.

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of

1. quarterly progress reports;

2. financial status report, no more than 90 days after the end of the budget period; and

3. final financial status report and performance report, no more than 90 days after the end of the project period.

Send all reports to: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, 255 East Paces Ferry Road, NE., Mailstop E–15, Atlanta, GA 30305–2209.

The following additional requirements are applicable to this program. A complete description of each is included in the application kit.

AR98–1 Human Subjects Requirements
AR98–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR98–4 HIV/AIDS Confidentiality Provisions
AR98–5 HIV Program Review Panel Requirements
AR98–7 Executive Order 12372 Review
AR98–9 Paperwork Reduction Act Requirements
AR98–10 Smoke-Free Workplace Requirements
AR98–11 Healthy People 2000
AR98–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Sections 301(a) and 317(k)(2) of the Public Health Service Act [42 U.S.C. 241(a) and 247b(k)(2)],as amended. The Catalog of Federal Domestic Assistance Number is 93.941.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement Number 98101.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Juanita Crowder, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), Procurement and Grants Office, 255 East Paces Ferry Road, NE., Room 300, Mailstop, E–15, Atlanta, GA 30305–2209, telephone (404), 842–6577, or E-mail address: jdd2@cdc.gov.

See also the CDC home page on the Internet: *http://www.cdc.gov*

For program technical assistance, contact Kay Lawton, Deputy Chief, Prevention Services Research Branch, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Rd., Mailstop E–46, Atlanta, GA 30333, telephone (404) 639–2090, E-mail address: *kel1@cdc.gov.*

Dated: July 17, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–19618 Filed 7–22–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Voluntary Surveys of Program Partners to Implement Executive Order 12862 in the Administration for Children and Families.

OMB No.: 0980–0266.

Description: Under the provisions of the Federal Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Administration for Children and Families (ACF) is requesting clearance for instruments to implement Executive Order 12862 within the ACF. The purpose of the data collection is to obtain customer satisfaction information from those entities who are funded to be our partners in the delivery of services to the American public. ACF partners are those entities that receive funding to deliver services or assistance from ACF programs. Examples of partners are States and local governments, territories, service providers, Indian Tribes and tribal organizations, grantees, researchers, or other intermediaries serving target populations identified by and funded directly or indirectly by ACF. The surveys will obtain information about how well ACF is meeting the needs of our partners in operating the ACF programs.

Respondents: State, Local, Tribal Govt. or Not-for-Profit.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Governments	51	5	.33	94
Head Start grantees & Delegates	200	1	.33	66
Other Discretionary Grant Programs	200	5	.33	330
Indian Tribes & tribal organizations	25	2	.33	16.5
Estimated Total Annual Burden Hours: 496.5				

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW, Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: July 17, 1998.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 98–19557 Filed 7–22–98; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Temporary Assistance for Needy Families (TANF) Technical Assistance Demonstration Grants

AGENCY: Office of Family Assistance, ACF, DHHS.

ACTION: Notice.

SUMMARY: The Administration for Children and Families (ACF) announces the availability of Federal funding to promote intensive joint planning and development activities at the local level that would reinforce the concept of the temporary nature of welfare, and promote self-sufficiency and employment. Funding under this announcement is authorized by section 1110 of the Social Security Act governing Social Services Research or Demonstration Projects.

DATES: The closing date for submission of applications is August 24, 1998.

Application submission: Applications may be mailed to the Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW, 6th Floor, Mailstop 6C–462, Washington, DC 20447.

Hand delivered applications are accepted during the normal working hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, on or prior to the established closing date at: Administration for Children and Families, Division of Discretionary Grants, 6th Floor, 901 D Street, SW, Washington, DC 20447.

An application will be considered to be received on time if sent on or before

the closing date as evidenced by a legible US Postal Service postmark or a legibly dated receipt from a commercial carrier.

(Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks are not acceptable as proof of timely mailing.)

Late Applications: Applications that do not meet one of these criteria are considered late applications. The ACF Division of Discretionary Grants will notify each late applicant that its application will not be considered in this competition.

Extension of Deadline: The ACF Office of Family Assistance may extend the deadline for all applicants because of acts of God, such as floods, hurricanes, etc., or when there is widespread disruption of mails. However, if ACF does not extend the deadline for all applicants, it will not extend the deadline for any applicants.

FOR FURTHER INFORMATION CONTACT: Yvonne C. Howard, Project Officer, Administration for Children and Families, Office of Family Assistance, 370 L'Enfant Promenade, SW, 5th Floor, Washington, DC 20447. Telephone (202) 401–4619, or Lisa Washington-Thomas, Telephone #(202) 401–5141.

SUPPLEMENTARY INFORMATION: The Administration for Children and Families (ACF) announces the availability of Federal funding to promote intensive joint planning and coordination activities at the local level that would reinforce the concept of the temporary nature of welfare, and promote self-sufficiency and employment. The Department will fund 15–20 grantees who will be selected on a competitive basis. Community based organizations who are providing services to welfare recipients, or have the capacity to provide services, are encouraged to apply. The recipients will be expected to enter into a cooperative agreement with ACF.

This program announcement consists of four parts. Part I provides background information about Welfare Reform. Part II describes the activities supported by this announcement and application requirements. Part III describes the application review process. Part IV provides information and instructions for the development and submission of applications.

Paperwork Reduction Act of 1995 (Public Law 104–13)

Public reporting burden for this collection of information is estimated to average four hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collection is included in the program announcement: ACF Uniform Project Description (OMB 0970–0139, Exp. 10/31/98). 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.

Part I. Introduction

On August 22, 1996, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996 (Pub. L. 104–193) was enacted. The PRWORA established the Temporary Assistance for Needy Families (TANF) program which transforms welfare into a system that requires work and provides for time-limited financial assistance.

The statute specifically eliminated any individual entitlement to, or guarantee of, assistance. It replaced the Aid to Families with Dependent Children, Job Opportunities and Basic Skills Training and Emergency Assistance programs with a single TANF block grant to States under Title IV–A of the Social Security Act. Under the TANF program, even though States have a great deal of flexibility to design and operate their programs, certain requirements apply.

Under TANF, States are required to assess the skills of recipients and help them prepare for and find work. States may create community service jobs or provide income subsidies or hiring incentives for potential employers. They also increasingly connect with one-stop service delivery systems. States cannot allow families, unless exempt, who include an adult who has received assistance for five cumulative years (or less at the State's option) to receive further assistance funded with Federal TANF funds. In addition, States must require that non-exempt adult recipients work after receiving assistance for 24 months.

The TANF program requires welfare agencies to move their clients into work at accelerated rates each year such that by the year 2002, 50% of welfare recipients are expected to have moved into the workforce. The need to provide jobs very quickly to large numbers of clients has intensified the need for welfare providers to develop creative ways of preparing their clients for employment.

In order to achieve these outcomes, States must help increasing numbers of clients prepare for, and find, jobs. Inevitably, this means working with clients who are difficult to place. Many lack basic skills that employers require. Others have skills, but face significant challenges in getting and keeping jobs, such as lack of transportation and child care, low literacy levels, domestic violence, and substance abuse issues.

On August 5, 1997, the President signed the Balanced Budget Act of 1997 Pub. L. 105–33. This legislation amended Section 403 of the Social Security Act and authorized the Secretary of Labor to provide Welfare-to-Work grants to States and local communities for transition employment assistance to move the hardest-to-employ TANF welfare recipients, former recipients and noncustodial parents into unsubsidized jobs and economic self-sufficiency.

The Administration for Children and Families (ACF) intends to make these harder-to-serve clients a major focus for its technical assistance efforts over the next year. This is where TANF, Welfare-to-Work, employers, job and skills training and employment programs; substance abuse and mental health programs, faith-based organizations and other community programs come together.

Welfare reform is causing radical culture changes in the welfare system and the methods of assistance provided to the TANF families. Included in these changes is the need to increase involvement of both the public and private sector to maximize the use of resources in support of these changes.

Although delivery of services (e.g., cash assistance, employment and training activities, etc.) to welfare recipients has always occurred at the local level, it has generally been done in accordance with Federal or State directives. One of the hallmarks of this welfare reform effort is that in most States responsibility and authority for welfare reform is being "devolved" to the county and local level.

These grants provide local communities seed money to convene planning meetings to develop alternative methods to reduce welfare dependency, facilitate partnership-building and strengthen community support for families in need.

Part II. Project Design

Purpose: The purpose of these technical assistance demonstration projects is to provide capacity-building grants that will enable development of strategic plans for their service areas to support welfare reform activities designed to focus on the "difficult-to-employ" population. Meetings will be convened in partnership with the State/

local agencies responsible for the administration of TANF, Welfare-to-Work agencies, and others in their communities.

These grants provide an opportunity for public and private entities to get actively involved in the welfare reform process through partnering with others in their community. This partnership will focus on designing and implementing innovative welfare reform initiatives that support and strengthen client self-sufficiency efforts.

ACF is interested in providing funds to eligible applicants with limited resources whose service areas have a high incidence of poverty. Funds provided under this grant may be used to contract for necessary expertise or resources to develop partnership arrangements through which it can contribute effectively to the development of a strategic plan that will embody the goals outlined above. Reasonable and necessary travel costs, including those necessary to facilitate participation by low income persons in the strategic planning process, may also be paid for with grant funds. The end result should be a comprehensive, finely tuned strategic plan that will include innovative approaches to provide for greater self-sufficiency of the poor.

Minimum Requirements for Project Design: In order to compete successfully in response to this announcement, the applicant should develop a plan which:

a. Demonstrates an understanding of TANF and Welfare-to-Work requirements.

b. Demonstrates an understanding of "gaps" in services to, and employment needs of, both TANF recipients and employers. Describes ways in which the collaborative partnerships will increase and support accessibility of services to TANF recipients.

c. Demonstrates the support of public and private entities to convene around issues faced by TANF recipients, and the level of program commitment and community collaboration.

d. Includes an outline and discussion of current and planned partnership activities, including a brief discussion of what outreach activities are proposed to develop new or expand existing partnerships, and which involve TANF recipients in the strategic planning process.

e. Provides information about other (State, local, community) resources the applicant will use to support this effort, including financial support (if any) for the meetings, in addition to Federal funding.

In recognition of the scope of the initiative, the potential difficulty in successfully facilitating the development of a "Community" strategic plan around welfare reform activities, and the significance of the initiative for public policy, ACF has determined that a close, cooperative working relationship between the ACF and the selected grantees will greatly further the public interest. Therefore, the awards made under this announcement will be cooperative agreements between ACF and the selected grantees. It is anticipated that ACF will be involved in the performance of the initiative in the following manner:

- ACF, working in cooperation with the grantee, will review and comment on the grantee's outreach strategies.
- ACF will review the list of participants developed by the grantee and where appropriate offer suggestions for other participants.
- ACF will conduct site visits, teleconferences, and meetings, as appropriate, to provide technical assistance.
- ACF will facilitate information sharing and discussions among grantees.

The above-cited areas of involvement are illustrative of the anticipated level of Federal involvement with the selected grantees. The exact activities will be detailed in the Cooperative Agreement which will be developed with each grantee.

Eligible Applicants: Financial assistance under this announcement is available to local public/private non-profit entities (e.g., community-based organizations; faith-based entities; etc.) who can demonstrate a commitment to supporting welfare reform activities.

Project Duration: The length of the project is one year (12 months).

Federal Share of the Project: The Federal share available for these grants is $300,000 for the one-year project period, subject to the availability of funds.

Anticipated number of Projects to be Funded: 15–20 grants will be funded under this announcement.

Matching Requirement: Applicants must provide at least ten (10) percent of the total cost of the project. The total approved cost of the project is the sum of the Federal share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $10,000 in Federal funds must include a match of at least $1,111 (i.e., 10 percent of the sum of the Federal and the non-Federal cost of the project). The successful applicant's match must be expended by the completion of the project period.

The recipient will be required to provide the agreed upon non-Federal share, even if it exceeds the required match stated above. Therefore, applicants should ensure that any amount proposed as the non-Federal share is committed to the project prior to inclusion in its budget.

Part III. The Review Process

A. Review Process and Funding Decisions

Timely applications from eligible applicants will be reviewed and scored competitively. Reviewers will use the evaluation criteria listed below to review and score the application.

In addition, ACF may refer applications to other Federal or non-Federal funding sources when it is determined to be in the best interest of the Federal Government or the applicant. It may also solicit comments from ACF Regional Office staff, other Federal agencies, interested foundations and national organizations. These comments along with those of the reviewers will be considered by ACF in making the funding decision.

B. Evaluation Criteria

Using the evaluation criteria below, reviewers will review and score each application. Applicants should insure that they address each minimum requirement listed above.

Reviewers will determine the strengths and weaknesses of each application in terms of the appropriate evaluation criteria listed below, provide comments, and assign numerical scores. The point value following each criterion heading indicates the maximum numerical weight that each criterion may be given in the review process.

C. Review Criteria

(a) *Knowledge of TANF and Welfare-to-Work Requirements* (20 points).

The applicant's proposal should demonstrate: (a) a good understanding of TANF and Welfare to Work Activities, including an outline of any current involvement with the programs; and (b) an understanding of "gaps" in services to, and employment needs of, both TANF recipients and employers.

(b) *Approach and Project Design* (35 points).

The application should provide: a) evidence of organizational experience in convening meetings and/or b) evidence of commitment to planning and implementing strategic planning activities; (c) an outline of the project design which takes into account specific features the applicant wishes to address, and the objectives, component(s) and

services that will be impacted by the convening/facilitation of the meetings; and (d) a description of how the applicant will conduct outreach activities to promote involvement of the public/private sector to enable their full participation in the planning process.

(3) *Public—Private Partnerships* (25 points).

In order to maximize the potential resources of the community to provide options and alternatives to the public welfare system, the applicant should provide evidence of coordination and commitments by public, private, non-profit, community and faith-based organizations and businesses to the strategic planning initiative.

(d) *Staff Skills and Responsibilities* (10 points).

It has been our experience that in order for projects of this scope to be successful, the support and commitment of the individuals at the highest levels of the public/private partnerships are necessary. Projects such as this are under tight time constraints and require innovation and flexibility. For example, it may be necessary from time to time to provide exceptions to "normal" ways of conducting business, or to establish expedited processes. Thus the support and commitment of senior officials to accomplish the many tasks involved is critical. The application should discuss this issue and indicate the level of commitment to the project which is proposed.

(e) *Budget Appropriateness* (5 points).

The application should demonstrate that the project's costs are reasonable in view of the anticipated results and benefits. Applicants may refer to the budget information presented in the Standard Forms 424 and 424A.

(f) *Empowerment Zone, Enterprise Community and/or Brownfields* (5 points).

The applicant is in within an area, a community or communities which, as of the closing date for application under this announcement, has been designated by the US Department of Housing (HUD), US Department of Agriculture (USDA) or the Environmental Protection Agency as an Empowerment Zone, Enterprise Community and/or Brownfields.

Part IV. Instructions for the Development and Submission of Applications

This part contains information and instructions for submitting applications in response to this announcement. Application forms, certifications and assurances are available from the contact person named in the preamble and through the ACF Internet at the following address: http://www.acf.dhhs.gov/programs/oa/form.htm. A checklist for assembling an application package is provided in this announcement.

A. Required Notification of the State Single Point of Contact

This program announcement is covered under Executive Order 12372, Intergovernmental Review of Federal Programs, and 45 CFR Part 100, Intergovernmental Review of Department of Health and Human Services Programs and Activities. Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

All States and Territories except Alabama, Alaska, Colorado, Connecticut, Hawaii, Idaho, Kansas, Louisiana, Minnesota, Montana, Nebraska, Oklahoma, Oregon, Virginia, Pennsylvania, South Dakota, Washington, American Samoa and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs), listed at the end of this announcement. Applicants from these 19 jurisdictions need take no action regarding E.O. 12372. Applicants for projects to be administered by federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372. Otherwise, applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive any necessary instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a.

Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between mere advisory comments and those official State process recommendations which may trigger the "accommodate or explain" rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW, 6th Floor, Mailstop 6C–462, Washington, DC 20447.

Refer to the beginning of this announcement under the heading **ADDRESSES**, for hand delivered applications.

B. Deadline for Submittal of Applications

The closing date for submittal of applications under this program announcement is found at the beginning of this announcement under the heading **DATES**. Applications shall be considered as meeting the announced deadline if they are either:

1. Received on or before the deadline date at the receipt point specified in this program announcement, or

2. Sent on or before the deadline date and received by ACF in time for the independent review.

Applicants are cautioned to request a legibly dated receipt from a commercial carrier or US Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

Late Applications: Applications which do not meet the criteria in 1 and 2 above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of Deadlines: ACF may extend the deadline for all applicants because of acts of God, such as floods, hurricanes, etc., or when there is widespread disruption of mails. However, if ACF does not extend the deadline for all applicants, it will not extend the deadline for any applicants.

C. Instructions for Preparing the Application

In order to assist applicants in completing the application, additional guidance on completing the Standard Forms 424 and 424A and required certifications have been included at the end of Part IV of this announcement. Please reproduce single-sided copies of these forms from the reprinted forms and type your information onto the copies.

Please prepare your application in accordance with the following instructions:

1. SF 424 Page 1, Application Cover Sheet

Please read the following instructions before completing the application cover sheet. An explanation of each item is included. Complete only the items specified.

Item 1. Type of Submission—Non-Construction.

Item 2. Date Submitted and Applicant Identifier—

Date application is submitted to ACF and applicant's own internal control number, if applicable.

Item 3. Date Received By State—State use only (if applicable).

Item 4. Date Received by Federal Agency—Leave blank.

Item 5. Applicant Information.

Legal Name—Enter the legal name of applicant organization. For applications developed jointly, enter the name of the lead organization only. There must be a single applicant for each application.

Organizational Unit—Enter the name of the primary unit within the applicant organization which will actually carry out the project activity. If this is the same as the applicant organization, leave the organizational unit blank.

Address—Enter the complete address that the organization actually uses to receive mail, since this is the address to which all correspondence will be sent. Do not include both street address and P.O. box number unless both must be used in mailing.

Name and telephone number of the person to be contacted on matters involving this application (give area code)—Enter the full name and telephone number of a person who can respond to questions about the application. This person should be accessible at the address given.

Item 6. Employer Identification Number (EIN)—Enter the employer identification number of the applicant organization, as assigned by the Internal Revenue Service, including, if known, the Central Registry System suffix.

Item 7. Type of Applicant—Self-explanatory.

Item 8. Type of Application—New.

Item 9. Name of Federal Agency—DHHS/ACF.

Item 10. Catalog of Federal Domestic Assistance Number—93.647.

Item 11. Descriptive Title of Applicant's Project—TANF Technical Assistance Demonstration Grant.

Item 12. Areas Affected by Project—Leave Blank.

Item 13. Proposed Project—Enter the desired start date for the project and projected completion date. The project period must begin no later than September 30, 1998.

Item 14. Congressional District of Applicant/Project—Enter the number of the Congressional district where the applicant's principal office is located.

Items 15. Estimated Funding Levels—In completing 15a through 15f, the dollar amounts entered should reflect the total amount requested for the first 12-month budget period.

Item 15a. Enter the amount of Federal funds requested in accordance with the preceding paragraph. This amount should be no greater than the maximum amount available under this announcement for the first 12-month budget period.

Items 15b–e Enter the amount(s) of funds from non-Federal sources that will be contributed to the proposed project. Items b–e are considered cost-sharing or matching funds.

Item 15f. Enter the estimated amount of income, if any, expected to be generated from the proposed project. Do not add or subtract this amount from the total project amount entered under item 15g. Describe the nature, source and anticipated use of this income in the Project Narrative Statement.

Item 15g. Enter the sum of items 15a–15e.

Item 16a. Is Application Subject to Review By State Executive Order 12372 Process?—Check Yes if your State participates in the E.O. 12372 process. Enter the date the application was made available to the State for review. Select the appropriate SPOC from the listing provided at the end of Part IV. The review of the application is at the discretion of the SPOC.

Item 16b. Is Application Subject to Review By State Executive Order 12372 Process?—Check No if the program has not been selected by State for review.

Item 17. Is the Applicant Delinquent on any Federal Debt?—Check the appropriate box. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include audit disallowances, loans and taxes.

Item 18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct. The document has been duly authorized by the governing body of the applicant and the applicant will comply with the . attached assurances if the assistance is awarded.—To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for signature of this application by this individual as the official representative must be on file in the applicant's office, and may be requested from the applicant.

Item 18a–c. Typed Name of Authorized Representative, Title, Telephone Number—Enter the name, title and telephone number of the authorized representative of the applicant organization.

Item 18d. Signature of Authorized Representative—Signature of the authorized representative named in Item 18a. At least one copy of the application must have an original signature. Use colored ink (not black) so that the original signature is easily identified.

Item 18e. Date Signed—Enter the date the application was signed by the authorized representative.

2. SF 424A—Budget Information—Non-Construction Programs

This is a form used by many Federal agencies. For this application, Sections A, B, C, and E are to be completed. Sections D and F do not need to be completed.

Section A—Budget Summary

Line 1:

Column (a): Enter TANF Technical Assistance Demonstration Grant;

Column (b): Enter 93.647.

Columns (c) and (d): Leave blank.

Columns (e), (f) and (g): enter the appropriate amounts needed to support the project for the budget period.

Section B—Budget Categories. This budget should include the Federal as well as non-Federal funding for the proposed project for the first 12-month budget period. The budget should relate to item 15g, total funding, on the SF 424. Under column (5), enter the total requirements for funds (Federal and non-Federal) by object class category.

The following instructions for preparing a detailed budget and budget justification are in accordance with the ACF Uniform Project Description. Note that "Construction" is not allowable under this program. The budget and budget justification should immediately follow the second page of the SF 424A.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424.

Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of

delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ACF-sponsored workshops should be detailed in the budget.

Equipment

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information which supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those which belong under other categories such as equipment, supplies, construction, etc. Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. If procurement competitions were held or if procurement without competition is being proposed, attach a list of proposed contractors, indicating the names of the organizations, the purposes of the contracts, the estimated dollar amounts, and the award selection process. Justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 USC 403(11) (currently set at $100,000). Recipients might be required to make available to ACF pre-award review and procurement documents, such as request for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the required supporting information referred to in these instructions.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Self Explanatory

The following instructions for preparing a project description (aka, program narrative statement) are in accordance with the ACF Uniform Project Description. The narrative should be typed double-spaced. All pages of the narrative (including charts, references, footnotes, tables, maps, exhibits, etc.) must be sequentially numbered, beginning with Knowledge of TANF and Welfare-to-Work Requirements.

Note: The length of the application, *including the application forms and all attachments,* should not exceed 100 pages.

3. The Project Description—Overview

Purpose

The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested.

Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

The narrative should address the specific requirements under Part II and also provide information concerning how the application meets the evaluation criteria using the following headings:

(a) *Knowledge of TANF and Welfare-to-Work Requirements*;
(b) *Approach and Project Design*;
(c) *Public—Private Partnerships*;
(d) *Staff Skills and Responsibilities*;
(e) *Budget Appropriateness*;
(f) *Empowerment Zone, Enterprise Community and /or Brownfields.*

The specific information to be included under each of these headings is described in section B of Part III—Evaluation Criteria.

4. Assurances/Certifications

Applicants are required to file an SF 424B, Assurances—Non-Construction Programs, and the Certification Regarding Lobbying. Both must be signed and returned with the application. In addition, applicants must certify their compliance with: (1) Drug-Free Workplace Requirements; and (2) Debarment and Other Responsibilities. These certifications are self-explanatory. Copies of these assurances and certifications are available from the ACF forms web site mentioned previously. A duly authorized representative of the applicant organization must certify that the applicant is in compliance with these assurances and certifications. A signature on the SF 424 indicates compliance with Drug-Free Workplace and Debarment notices and Public Law 103–227, Part C—Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994.

D. Checklist for a Complete Application

The checklist below is for your use to ensure that your application package has been properly prepared.

—One original application, signed and dated, plus two copies.
—Complete application length should not exceed 100 pages.
—A complete application consists of the following items in this order:

- Application for Federal Assistance (SF 424);
- A completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF 424 if applicable;
- Budget Information—Non-construction programs (SF 424A);
- Budget Justification for SF 424A Section B—Budget Categories;
- Letter from the Internal Revenue Service to prove nonprofit status, if necessary;
- Copy of the applicant's approved indirect cost rate agreement, if appropriate;
- Program Narrative Statement (See Part III, Section C);
- Assurances—Non-construction programs (SF 424B); and
- Certification Regarding Lobbying.

E. Submitting the Application

Each application package must include an original and two copies of the complete application. Each copy should be secured with a *binder clip or similar devise*. Please do not staple. All pages of the narrative (including charts, tables, maps, exhibits, etc.) must be sequentially numbered. In order to facilitate handling, please do not use covers, binders, or tabs.

Applicant should include a self-addressed, stamped acknowledgment card. All applicants will be notified automatically about the receipt of their application.

Catalog of Federal Domestic Assistance 93.647.

Dated: July 17, 1998.

Diann Dawson,

Acting Director, Office of Family Assistance.

[FR Doc. 98–19609 Filed 7–22–98; 8:45 am]
BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0147]

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by August 24, 1998.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Margaret R. Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Access to Mammography Services Survey—New

Under the Mammography Quality Standards Act (MQSA) (42 U.S.C. 2636), FDA is authorized to develop regulations, inspect facilities, and ensure compliance with standards established to assure quality mammography services for all women. In the legislative history of MQSA, Congress expressed the need to balance quality improvements with impact on access to mammography services. The Government Accounting Office (GAO) has recently done an assessment and concluded that access has been minimally affected. However, new regulations will become effective April 28, 1999.

The Mammography Facility Survey (the survey) will provide FDA important information about the impact of specific aspects of the MQSA program on access to mammography services. The survey will provide facility closure rates both pre- and post-implementation of the final regulations. Furthermore, the survey will determine reasons for facility closures, including those related to specific MQSA regulations and those that are attributable to general operational challenges. Finally, the survey will also gather information from operating facilities to determine the impact of MQSA regulations on facilities that continue to provide mammography services. Participation will be voluntary. A total of 460 facilities (240 annually) that have

ceased to provide mammography services will be given the opportunity to take part in a 15 minute telephone survey. These facilities will be matched by zip code (and by facility type and size, within zip code) to 1,840 open mammography centers (960 annually) to provide up to four controls for each closed facility . Each of the open facilities will also be offered the opportunity to participate in the study up until we have two matched control completed interviews. The survey will collect demographic information from each survey respondent and then proceed to ask questions that address the perceived impact on the facility's ability to provide mammography services of factors related to specific MQSA regulations, as well as factors not directly associated with MQSA requirements. Additional descriptive information about the facilities will be abstracted from various FDA databases in order to enhance the level of detail that is known about each respondent.

In the **Federal Register** of March 18, 1998 (63 FR 13256), the agency requested comments on the proposed collection of information using the Mammography Facility Survey. FDA received one response to the docket, which was generally supportive of the proposed survey. This comment, however, recommended that the survey address two issues, which are described in the next two paragraphs along with FDA's responses.

The first issue stated that some facilities apply for accreditation/certification but are denied several times. Ultimately they withdraw from the MQSA process, and reapply using a different name or address. The concern mentioned in the comment is that such facilities are "inflating the actual number of facilities that have been negatively impacted by the cost and time involved in lawfully performing quality mammography services." FDA's response to this comment is twofold. First, the Mammography Facility Survey is not intended to estimate the rate at which facilities are closing, so the issue of considering such facilities as being closed when they are planning to reapply (and, thus, overestimating the rate of facility closure) is not relevant to this study. This study is intended to examine factors that distinguish closed from open facilities. For this purpose, a facility such as those described in the comment can legitimately be considered closed at the time of the survey. Second, the survey does collect information about each facility's accreditation/certification history, and the length of time the facility has been closed, its current status, and its plans for reapplying for accreditation in the near future.

The second issue stated that many time-consuming activities included in the inspection phase of the MQSA process could be performed during the accreditation/certification phase and, thus, "reduce the time and cost of the entire process to the mammography facility," as well as "achieve a more uniform application of the requirements and minimize the impact to patient care/access." The comment suggested that the survey should explore the effects of reviewing both staff's professional qualifications and the medical physicist's annual survey of mammography machines during the accreditation/certification process. FDA views this comment as pertaining more to FDA policy regarding the timing of the two particular reviews mentioned in the comment. FDA's policy has been carefully developed to require both staff professional qualifications and a medical physicist's survey of mammography machines on a yearly basis (rather than on a triennial basis). Any change in this policy is not the focus of the current survey, although this study will gather information that might suggest whether the policy should be re-examined. Any facility that responds that the inspection process or the accreditation/certification process was a "major problem" in terms of money and/or time is asked to describe the nature of the problem. Thus, the responses to these survey items will indicate whether various aspects of the inspection and/or accreditation/certification processes are very burdensome to facilities. FDA estimates the burden of this collection of information as follows:

TABLE 1.— ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
Screener: 648	1	648	0.033	21
Interview: 648	1	648	.25	162
Total				183

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The number of facilities to be included in the study have increased from the estimate in FDA's previous notice seeking comment on this collection of information (63 FR 13256, March 18, 1998). This is because the numbers in the previous estimate were too low and represented a study period of only 6 months, which is not enough time to obtain interviews both before and after the final implementation of the MQSA regulations on April 28, 1999. The change in the matching factors is an outcome of the pilot study that revealed the large range in types of mammography facilities responding to the survey.

Dated: July 13, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–19635 Filed 7–22–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0570]

BASF Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that BASF Corp. has filed a petition proposing that the food additive regulations be amended to provide for

the safe use of chromium antimony titanium buff rutile (C.I. Pigment Brown 24) as a colorant for polymers intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4608) has been filed by BASF Corp., 3000 Continental Dr. North, Mt. Olive, NJ 07828–1234. The petition proposes to amend the food additive regulations to provide for the safe use of chromium antimony titanium buff rutile (C.I. Pigment Brown 24) as a colorant for polymers intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 6, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–19562 Filed 7-22-98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0569]

Ticona; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ticona has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene-norbornene copolymers as articles or components of articles in contact with dry food.

DATES: Written comments on the petitioner's environmental assessment by August 24, 1998.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3091.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4597) has been filed by Ticona, c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 177.1520 *Olefin polymers* (21 CFR 177.1520) to provide for the safe use of ethylene-norbornene copolymers as articles or components of articles in contact with dry foods.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before August 24, 1998, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: July 6, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–19561 Filed 7–22–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–64, 64.21, 64.21U, 64.21P, 64.21UP, 64EC, 64.21E, 64.9P, 64.10P, 64.11A, 64.9d]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection;

Title of Information Collection: Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program.

Form Nos.: HCFA–64, 64.21, 64.21U, 64.21P, 64.21UP, 64EC, 64.21E, 64.9, 64.10, 64.10P, 64.11a, 64.9d;

Use: These new forms are revisions of the currently approved collection report Form HCFA–64. These forms will be used by State Medicaid agencies to report their actual CHIP-related Medicaid expenditures and the numbers of CHIP-related children, and other children being served in the Medicaid program, to the Health Care Financing Administration (HCFA). The forms will be used by the HCFA to ensure that the appropriate level of Federal payments for the State's CHIP-related Medicaid program expenditures are made in accordance with the CHIP and related Medicaid provisions of the BBA of 1997, and to track, monitor, and evaluate the numbers of CHIP-related children and other individuals being served by the Medicaid program.

Note: at this time Forms HCFA–64.21E and HCFA–64EC of this package are for States to report the numbers of CHIP-related children and other

children, by service delivery system, that are served in States' Medicaid programs based on age categories. However, we are continuing to work with the States to develop an appropriate format for States to report the numbers of children, by service delivery system, that are served in the States' Medicaid programs based on Federal poverty income level categories and under the age categories previously requested. When this format is finalized it will be incorporated into Forms HCFA–21E and HCFA–64EC.

For a short description of the CHIP-related Medicaid reporting forms, see below:

- **HCFA–64 Summary Sheet**

Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Summary Sheet. The form HCFA–64 summary sheet is a one-page summary sheet summarizing the total expenditures reported for the quarter. The remaining forms provide additional detail and support the entries made on the summary sheet.

- **HCFA–64.9**

Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program , Expenditures in this Quarter. The form HCFA–64.9 is comprised of two pages that are used for detailing, by category, current quarter program expenditures by type of service (e.g., clinical services, dental services). The total figures from the form HCFA–64.9 are transferred to the form HCFA–64 Summary Sheet, Line 6, columns (a) and (b). A separate copy of the form HCFA–64.9 must also be submitted for each waiver granted to the State agency for which expenditures have been incurred. The total waiver figures are already incorporated in the expenditures reported on the "base" (one form) form HCFA–64.9.

- **HCFA–64.9p**

Quarterly Medicaid Statement of Expenditures for the Medical Assistance Program, Prior Period Adjustment. The form HCFA–64.9p supports claims or adjustments for prior period (years) which are transferred to the form HCFA–64 summary sheet and noted on Lines 7, 8, 10.A., and 10.B., columns (a) and (b). It contains the same service categories as the form HCFA–64.9. This two-page form details the program expenditures, by category, arraying the expenditures by fiscal year. A separate form HCFA–64.9p is prepared to support each fiscal year and each line entry (Lines 7, 8, 10.A., and 10.B.) on the summary sheet. If the prior period adjustment includes waiver-related expenditures, a separate form HCFA–64.9p must be filed for each waiver including HCBS waivers.

- **HCFA–64.9d**

Allocation of Disproportionate Share Hospital Payment Adjustments to Applicable FFYs. The form HCFA–64.9d has been created to track payments of DSH by Federal Fiscal Year. This one page form details, by Inpatient Hospital Services and Mental Health Facility Services, details the allotment and DSH payments by Federal Fiscal Years. This is authorized under § 1923(f) of the Act.

- **HCFA–64.10**

Expenditures for State and Local Administration for the Medical Assistance Program, Expenditures in this Quarter. The form HCFA–64.10 supports administrative expenditures reported on the summary sheet. This one page form details, by category, the current quarter expenditures for administering the Medicaid program. The total figures from the "base" form HCFA–64.10 summary sheet. The State agency must also file a separate form HCFA–64.10 or each of its waivers granted to the State agency for which expenditures have been incurred. The waiver expenditures reported on a supporting form HCFA–64.10 are already included with the overall expenditures reported on the "base" form HCFA–64.10.

- **HCFA–64.10p**

Expenditures for State and Local Administration for the Medical Assistance Program, Prior Period Adjustments. The form HCFA–64.10p is similar to the form HCFA–64.10 except that it addresses adjustments to prior period expenditures. The totals from the form HCFA–64.10p are transferred to the form HCFA–64 summary sheet, Lines 7, or 8, or 10.A., or 10.B., columns (c) and (d). A separate form HCFA–64.10p must be completed for each line item entry, by fiscal year, on the summary sheet.

- **HCFA–64.11**

Summary Total of Receipts from form HCFA–64.11A. The form HCFA–64.11 has been created to summarize the information reported on the various HCFA–64.11a forms. This is authorized under § 1903(w) of the Act.

- **HCFA–64.11A**

Actual Receipts by Plan Name. The form HCFA–64.11a has been created to report the actual receipts by plan names from provider-related donation and health care related taxes, fees and assessments. This is authorized under § 1903(w) of the Act.

- There are no forms numbered 64.1 through 64.8 because of form development and redevelopment over the years. There are also no forms detailing items 9.B. through 9.E. of the summary sheet because there is no need for further breakdown of these figures for reimbursement calculations.

HCFA–64.21 Quarterly Medical Assistance Expenditure By Children's Health Insurance Program Expenditure Categories. States will use this form to report current quarter expenditures for children who are determined presumptively eligible under section 1920A of the Act.

HCFA–64.21U Quarterly Medical Assistance Expenditure Categories by Children's Health Insurance Program Expenditure Categories. States will use this form to report current quarter expenditures described under section 1905(u)(2) and 1905(u)(3) of the Act.

HCFA–64.21P Quarterly Medical Assistance Expenditures By Children's Health Insurance Program expenditure categories. States will use this form to report prior period expenditures for children who are determined presumptively eligible under section 1920A of the Act.

HCFA–64.21UP Quarterly Medical Assistance Expenditures by Children's Health Insurance Program Expenditure Categories, Prior Period Expenditures. States will use this form to report prior period expenditures described under section 1905(u)(2) and (3) of the Act.

HCFA–64.21E Number of Children Served Related to Children's Health Insurance Program. States use this form to report the numbers of CHIP-related children, by service delivery system, that are served in the States' Medicaid programs based on age categories.

Note: HCFA is working with States to develop an appropriate format for States to report numbers of CHIP-related children, by service delivery system, that are served in the States' Medicaid programs related to CHIP based on Federal poverty income level categories and under the age categories previously requested. When the format is finalized it will be incorporated into this form.

HCFA–64EC Number of Children Served Related to Children's Health Insurance Program. States use this form to report the numbers of children (other than CHIP-related children), by service delivery system, that are served in the States' Medicaid programs based on age categories. Note: HCFA is working with States to develop an appropriate format for States to report numbers of children (other than CHIP-related children), by service delivery system, that are served

in the Medicaid program based on Federal poverty income level categories and under the age categories previously requested. When the format is finalized it will be incorporated into this form.

Frequency: Quarterly;

Affected Public: State and Federal government;

Number of Respondents: 56;

Total Annual Responses: 224;

Total Annual Hours: 16,464.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: John Rudolph, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 9, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, Division of HCFA Enterprise Standards, Security and Standards Group, Health Care Financing Administration.

[FR Doc. 98–19577 Filed 7–22–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–R–235]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New Collection; *Title of Information Collection:* Data Use Agreement Information Collection Requirements, model agreement, and Supporting regulations; *Form No.:* HCFA–R–235; *Use:* The agreement addresses the conditions under which HCFA will disclose and the User will maintain HCFA data that are protected by the Privacy Act of 1974, 552a. *Frequency:* On occasion; *Affected Public:* Business of other for-profit, not-for-profit institutions; *Number of Respondents:* 1,500; *Total Annual Responses:* 1,500; *Total Annual Hours:* 750.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 14, 1998.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 98–19574 Filed 7–22–98; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Scholars Program Applications Review Meeting.

Date: August 6–7, 1998.

Time: 6:30 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Blvd., 6th Floor, Rockville, MD 20852.

Contact Person: Mary Bell, Scientific Review Administrator, Grants Review Branch, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard, Rockville, MD 20892.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: July 15, 1998

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19665 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: August 10–11, 1998.

Time: 8:30 am to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: Governor Calvert House, historic Inns of Annapolis, 58 State Circle, Annapolis, MD 21403.

Contact Person: M. Virginia Wills, Lead Grants Technical Assistant, Extramural Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–6106.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: July 17, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19658 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: July 31, 1998.

Time: 8:30 am to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Holiday Inn, 2101 Wisconsin Ave., N.W., Washington, DC 20007.

Contact Person: Aida K. Vasquez, Grant Technical Assistant, Extramural Review Branch, National Institute on Alcohol Abuse and Alcoholism, Suite 409, 6000 Executive Boulevard, Bethesda, MD 20892, 301–443–9788.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.272, Alcohol National Research Service Awards for Research Training; 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institute of Health, HHS)

Dated: July 17, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19659 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Nat'l. Inst. on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: July 31, 1998.

Time: 1:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard S. Fisher, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd., Room 400C, MSC–7180, Bethesda, MD 20892, 301–496–8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 17, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19661 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Nat Inst. of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1–1–GRB–7–03.

Date: August 4, 1998.

Time: 3:00 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building 45, Room 6AS 25F, 9000 Rockville Pike, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1–GRB5–02 P.

Date: August 9–11, 1998.

Time: August 9, 1998, 7:30 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriot, 934 16th Street, Denver, CO 80202.

Contact Person: Francisco O. Calvo, PhD, Chief, Special Emphasis Panel, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37E, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–8897.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB 7 02 P.

Date: August 10–12, 1998.

Time: August 10, 1998, 7:30 pm to Adjournment.

Agenda: To review and evaluate grant applications.

Place: St Louis Marriot Pavillion, One Broadway, St Louis, MO 63102.

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–37, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: July 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19662 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Nat'l. Inst. on Deafness & Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel.

Date: July 27, 1998.

Time: 10:00 AM to 12:30 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd, Suite 400C, Bethesda, MD 20892 (Telephone conference Call).

Contact Person: Richard S. Fisher, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Activities, NIDCD/NIH, 6120 Executive Blvd, Room 400C, MSC–7180, Bethesda, MD 20892, 301–496–8683.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: July 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19663 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DPEARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Biological and Physiological Sciences Special Emphasis Panel, July 30, 1998, 8:00 AM to July 30, 1998, 5:00 PM, Ramada Inn, 1775 Rockville Pike, Rockville, MD, 20852 which was published in the **Federal Register** on July 14, 1998, 63FR134.

The meeting will now be held on July 31, 1998. The time and location are the same. The meeting is closed to the public.

Dated: July 17, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19660 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Behavioral and Neurosciences Special Emphasis Panel.

Date: July 22–23, 1998.

Time: 8:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Ramada Inn, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Herman Teitelbaum, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5190, MSC 7846, Bethesda, MD 20892.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG5–EVR–01.

Date: July 22, 1998.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Garrett V. Keefer, PhD. Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: July 23–24, 1998.

Time: 9:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Bethesda Ramada, 8400 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Nancy Pearson, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7890, Bethesda, MD 20892, (301) 435–1047.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: July 28, 1998.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Sheraton Reston Hotel.

Contact Person: Ramesh K. Nayak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5146, MSC 7840, Bethesda, MD 20892, (301) 435–1026.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel.

Date: July 28, 1998.

Time: 10:00 am to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Garrett V. Keefer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG5 BM1–M1.

Date: July 28, 1998.

Time: 11:00 am to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Timothy Henry, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG5/BM1/M2.

Date: July 28, 1998.

Time: 1:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Timothy Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG5–BM1–S1.

Date: July 29, 1998.

Time: 1:30 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Timothy Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel, ZRG2–NMS–1

Date: July 30–31, 1998.

Time: 8:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Syed Amir, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6168, MSC 7892, Bethesda, MD 20892, (301) 435–1043.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel, ZRG2–NMS–2.

Date: July 30–31, 1998.

Time: 8:00 am to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Ave, Chevy Chase, MD 20815.

Contact Person: Krish Krishnan, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 4435–1041.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel.

Date: July 30, 1998.

Time: 10:am to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn National Airport, 1489 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Garret V. Keefer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG5–BM1–S2.

Date: July 30, 1998.

Time: 11:00 am to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Timothy Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.—Nutrition/Metabolism.

Date: July 31, 1998.

Time: 8:30 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sooja K. Kim, PhD, RD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7892, Bethesda, MD 20892, (301) 435–1780.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel, ZRG2–MEP–03M.

Date: July 31, 1998.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcelina B. Powers, DVM, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892, (301) 435–1720.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: August 3, 1998.

Time: 8:00 am to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Eugene Vigil, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7840, Bethesda, MD 20892, (301) 435–1025.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG–5–AARR–04 (04).

Date: August 3, 1998.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mohindar Poonian, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7852, Bethesda, MD 20892, (301) 435–1168.

Name of Committee: Microbiological and Immunological Sciences Special Emphasis Panel, ZRG–5–MBC1–01.

Date: August 4, 1998.

Time: 2:00 pm to 3:30 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Garrett Keefer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4190, MSC 7808, Bethesda, MD 20892, (301) 435–1152.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel, ZRG2 ET–1 (3)M.

Date: August 4, 1998.

Time: 3:00 pm to 5:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip L. Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892, (301) 435–1718.

This notice is being published less than 15 days prior to the above meetings due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: August 11, 1998.

Time: 9:00 am to 5 pm.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Ave, Washington, DC 20007.

Contact Person: David J. Remondini, Phd, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7890, Bethesda, MD 20892, (301) 435–1038.

Name of Committee: Chemistry and Related Sciences Special Emphasis Panel, Chemistry and Related Sciences SEP ZRG3 BIO(2).

Date: August 17, 1998.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Chhanda L. Ganguly, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5156, MSC 7842, Bethesda, MD 20892, (301) 435–1739.

Name of Committee: Microbiological and Immunological Sciencies Special Emphasis Panel, ZR65–MBC1–02–M.

Date: August 18, 1998.

Time: 2:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Martin Slater, PhD, Scientific Review Administrator.

Name of Committee: Biological and Physiological Sciences Special Emphasis Panel.

Date: August 27, 1998.

Time: 3:00 pm to 4:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Sherry Dupere, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 15, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–19664 Filed 7–22–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, the SAMHSA Reports Clearance Officer on (301) 443–0525.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Voluntary Customer Satisfaction Surveys to Implement Executive Order 12862 in the Substance Abuse and Mental Health Services Administration (SAMHSA)—New—Executive Order 12862 directs agencies that "provide significant services directly to the public" to "survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services." SAMHSA provides significant services directly to the public through a range of mechanisms, including publications, technical assistance and web sites. Many of these services are focused on information dissemination activities. The purpose of this submission is to obtain generic approval for satisfaction surveys of SAMHSA's customers.

The estimated annual hour burden is as follows:

Type of survey	Number of respondents	Hours/response	Total hours	Wage rate	Total hour cost
Focus groups	100	2.50	250	$20.00	$5,000
Mail/telephone/e-mail surveys	8,000	.25	2,000	20.00	40,000
Total	8,100		2,250	20.00	45,000

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 16, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–19612 Filed 7–22–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; " 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.

Proposed Project: GPRA Client Variables for the Center for Substance Abuse Treatment (CSAT)—NEW—The mission of the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Treatment (CSAT) is to improve the effectiveness and efficiency of substance abuse treatment services across the United States. All of CSAT's activities are designed to ultimately reduce the gap in the availability of substance abuse treatment and improve the effectiveness and efficiency of those treatments. Data will be collected from four sets of CSAT-funded Knowledge Development and Application (KDA) projects where client status and behavior are assessed at intake, during treatment, and post-treatment. CSAT-funded projects will be required to submit this data as a contingency for their award. The analysis of the data will also help determine whether the goal of reducing health and social costs of drug use to the public is being achieved.

The data collection activity will meet the reporting requirements of the Government Performance Review Act (GPRA) (Public Law 103–62) requirements by allowing SAMHSA to

quantify the effects and accomplishments of CSAT programs. Following is the estimated annual response burden for this effort.

KDA	Number of clients	Responses/ client	Hours/ response	Annual burden
Targeted Capacity Expansion	13,500	1	.33	4,500
Women and Violence	4,500	1	.33	1,500
Methamphetamine Treatment	1,500	1	.33	500
Adolescent Treatment Models	2,250	1	.33	750
Total				7,250

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: July 16, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–19613 Filed 7–22–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–844776

Applicant: Randy Pope, Meridian, MS.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–768272

Applicant: Circus Tihany, Sarasota, FL.

The applicant requests renewal of this permit to re-export and re-import captive-born tigers (*Panthera tigris*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notificatation covers activities conducted by the applicant over a three year period.

PRT–844884

Applicant: Lonnie C. Dement, Lindenhurst, IL.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–844883

Applicant: Donald E. Wenner, MD, Roswell, NM.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director by August 24, 1998.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. *Phone:* (703/358–2104); *FAX:* (703/358–2281).

Dated: July 17, 1998.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 98–19597 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–825177

Applicant: Cynthia E. Rebar, Edinboro University of Pennsylvania, Department of Biology and Health Services, Edinboro, Pennsylvania.

The applicant requests an amendment to her permit for take (capture and release) activities of Indiana bats (*Myotis sodalis*) to add the state of West Virginia and further areas in Ohio to the scope of permitted activities. Take activities are currently authorized on the Ravenna Army Ammunition Plant, Ravenna, Ohio, for biological survey purposes. Activities are proposed to document presence or absence of the species for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5332); FAX: (612/713–5292).

Dated: July 16, 1998.

John A. Blankenship,

Assistant Regional Director, IL, IN, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–19622 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Geological Survey

Advisory Committee on Water Information

ACTION: Notice of a meeting of the Advisory Committee on Water Information (ACWI).

SUMMARY: This is to inform the public about the August 1998 meeting of the ACWI. The meeting is open to the public.

DATES: The meeting will begin on August 17, 1998, at 1:00 p.m. EST, and will adjourn on August 19 at 4:00 p.m.

LOCATION: Embassy Suites Hotel and Athletic Club at Denver Place, 1881 Curtis Street, Denver, Colorado 80202.

FOR FURTHER INFORMATION CONTACT: Nancy Lopez, Executive Secretary of the ACWI, at telephone number: (703) 648–5014 or facsimile number: (703) 648–5644. Her address is 417 National Center, U.S. Geological Survey, Reston, VA 20192. If you need special arrangements or services to participate effectively in the meeting, please talk to Meredith Tatum at telephone number (703) 648–5015. For special arrangements please let Ms. Tatum know by noon EDT, Wednesday, August 12, so that we can accommodate your needs.

SUPPLEMENTARY INFORMATION: The ACWI is the major national mechanism for implementing Office of Management and Budget Memorandum No. 92–01, Coordination of Water Resources Information. With over 30 member organizations, the ACWI represents a wide range of water-resources interests and functions. The members include all levels of government and the private sector. The ACWI advises the Federal Government on activities and plans related to Federal water-information programs and the effectiveness of those programs in meeting the Nation's water information needs.

Also, member organizations of the ACWI collaborate with others to sponsor workshops, symposia, and other forums that foster better communication among Federal and non-Federal sectors about water-information activities and needs.

At this meeting, the ACWI will discuss a variety of topics including: water-resources aspects of the Federal Year 1999 Budget, watershed information requirements, streamgaging, monitoring roles of different groups, the proposed external review of the USGS Federal-State Cooperative Water Resources Program, contracting with the private sector for water-resources information, and the proposed Subcommittee on Spatial Water Data. Also, the subgroups of ACWI will report on their activities. The meeting will include a field trip to the Upper Cherry Creek Watershed in the Denver area. For more detailed information about the program, please contact Ms. Lopez as shown above.

The meeting will include an opportunity for public comments. To make public comments, please provide a written request by noon EST, August 12, 1998, to Ms. Lopez. The request should include the name of the person that will be speaking and the general topic. Verbal comments to the ACWI may not exceed 5 minutes. At the meeting please provide 40 written copies of the comments to the registration desk for distribution and archiving as required by law. Anyone wishing to provide written information to the ACWI may do so at anytime by providing 40 copies to Ms. Lopez.

Dated: July 17, 1998.

Lewis Wade,

Acting Assistant Chief Hydrologist Office of Information.

[FR Doc. 98–19598 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–Y7–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P; AA–11774]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(h)(1) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(h)(1), will be issued to Koniag, Inc., Regional Native Corporation for approximately 2.7 acres. The lands involved are in the vicinity of Sutwik Island, Alaska.

Seward Meridian, Alaska

T.42S., R.49 W.,
Sec. 9.

A notice of the decision will be published once a week, for four (r) consecutive weeks, in the *Anchorage Daily News*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 24, 1997 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Patricia A. Baker,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 98–19621 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–SS–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–130–2810–00;GP8–0264]

Regulated Fire Closure State of Washington

AGENCY: Bureau of Land Management, Spokane District, Interior.

ACTION: Notice.

SUMMARY: This notice announces a regulated fire closure for Bureau of Land Management Lands in the State of Washington.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 9212.2, the following acts are prohibited on public lands within the Spokane District, Bureau of Land Management (BLM) including Juniper Dunes Recreation Area, and areas surrounding Hog Lake, Fishtrap, Pacific Lake, Twin Lakes, Coffeepot, Yakima Canyon, and Douglas Creek recreation sites, beginning at noon on July 20, 1998 until further notice.

1. Building, maintaining, attending or using a fire, campfire or stove fire, including charcoal briquette fire (43 CFR 9212.2).

Note: Liquefied and bottled gas stoves and heaters are permitted provided that they are used within designated campgrounds or picnic areas. Campfires are only allowed in designated campgrounds or picnic areas within BLM fire rings or grills.

2. Smoking while traveling in timber, brush or grass areas, except in vehicles on roads, on barren or cleared areas at least (3) feet in diameter or boats on rivers or lakes (43 CFR 9212.2).

3. Operating any type of motorized vehicle off developed roadways. Parking of vehicles off roadways must be done in an area barren of flammable materials (43 CFR 9212.2(b)(1).

Note: Developed roadways are those which are clear of flammable debris, berm to berm. Juniper Dunes Recreation Area is exempt.

Pursuant to 43 CFR 9212.3(a) the following persons are exempt from this order:

1. Persons with a permit specifically authorized the otherwise prohibited act or omission.

2. Any Federal, State, or local officer or a member of an organized rescue or firefighting Violation of these prohibitions is punishable by a fine of not more than $1000 or to imprisonment of not more than 12 months, or both.

FOR FURTHER INFORMATION CONTACT: Scott Boyd, BLM, Spokane District Office, 1103 N. Fancher, Spokane, Washington, 99212–1275; or call 509–536–1200.

Dated July 17, 1998.

Joseph K. Buesing,

District Manager.

[FR Doc. 98–19619 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Lower Snake River District Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting notice.

SUMMARY: The Lower Snake River District Resource Advisory Council will conduct a field tour of the Payette River Corridor, which is joint BLM and Forest Service Recreation Fee Demonstration Project located about 40 miles northwest of Boise.

DATES: August 5, 1998. The tour will begin at 8:00 a.m.

FOR FURTHER INFORMATION CONTACT: Barry Rose, Lower Snake River District Office (208–384–3393).

Dated: July 14, 1998.

Katherine Kitchell,

District Manager.

[FR Doc. 98–19578 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–41–5700; WYW135408]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of 30 U.S.C. 188(d) and (e), and 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW135408 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW135408 effective April 1, 1998, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Pamela J. Lewis.

Chief, Leasable Minerals Section.

[FR Doc. 98–19576 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–070–1230–00]

Glenwood Springs Resource Area Occupancy and Recreational Use Restrictions

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of use restrictions.

SUMMARY: This order restricts occupancy and use of Public Lands administered by the Bureau of Land Management (BLM) in the Glenwood Springs Resource Area, Grand Junction District. It establishes rules of conduct for use of Public Lands generally and for developed recreation sites and areas pursuant 43 CFR 8364.1. Except as modified by these restrictions, all regulations currently in effect for Public Lands will remain in effect.

The affected Public Lands are located in Garfield, Eagle and Pitkin counties, Colorado.

EFFECTIVE DATE: These limitations shall be effective immediately and remain in effect until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: The affected Public Lands will be posted with appropriate regulatory signs. Maps showing the restricted areas are available at the local BLM offices

Unless otherwise authorized, or otherwise closed, no person shall:

(1) Camp or otherwise occupy any location or site for longer than seven (7) consecutive days between April 1 and August 31.

(2) Camp or otherwise occupy any location or site for longer than fourteen (14) days between September 1 and March 31.

(3) Relocate a camp or occupancy to another location or site on Public Lands within 30 miles of a previously occupied location or site.

(4) Return to camp or occupy a location or site within thirty (30) days after leaving or vacating that previously occupied location, site or area.

(5) Use a campsite or otherwise occupy Public Lands for other than recreational purposes.

(6) Camp or occupy Public Lands for residential camping, or otherwise establish temporary living quarters for use while employed or seeking employment in the area.

(7) Leave personal property unattended for longer than twenty-four (24) hours.

As used herein,

(1) "Camping" means overnight stays or lodging in a tent, bivouac, sleeping bag, motor vehicle, motor home, travel trailer, or other temporary means of shelter; or overnight occupancy by any equipment or vehicles used for such purpose.

(2) "Recreational Camping" means camping in connection with or during an outing or vacation by persons engaged in or pursuing recreational, tourism and leisure activities such as hunting, fishing, boating, hiking, bicycling, sightseeing and the like.

(3) "Residential Camping" means camping or setting up temporary living quarters in connection with or during employment, or while seeking employment in the area or vicinity.

These restrictions will help ensure the continued availability of public lands and sites for outdoor recreational opportunities, reduce the impacts of public use on the resources of the Public Lands, promote public health and safety, and minimize conflicts among the various uses of the Public Lands.

EXEMPTIONS: Persons who are exempt from these restrictions include any federal, State or local officers engaged in fire, emergency and law enforcement activities; BLM employees engaged in official duties, and other persons specifically authorized through a permit to conduct or engage in the otherwise prohibited activity or use.

PENALTIES: Violations of these limitations are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Michael S. Mottice, Area Manager, Glenwood Springs Resource Area, 50629 Highway 6 & 24, P.O. Box 1009, Glenwood Springs, CO 81602.

Mark Morse,

Grand Junction District Manager.

[FR Doc. 98–19573 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–78–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–050–08–1230–00; 8371]

Arizona: Long-Term Visitor Area Program for 1998–1999 and Subsequent Use Seasons; Revision to Existing Supplementary Rules, Yuma Field Office, Arizona, and California Desert District, California

AGENCY: Bureai of Land Management, Interior.

ACTION: Publication of supplementary rules for Long-Term Visitor Areas within the California Desert District, El Centro Resource Area.

SUMMARY: The Bureau of Land Management (BLM) Yuma Field Office and California Desert District announce revisions to the Long-Term Visitor Area (LTVA) Program. The program, which was instituted in 1983, established designated LTVAs and identified an annual long-term use season from September 15 to April 15. During the long-term season, visitors who wish to camp on public lands in one location for extended periods must stay in the designated LTVAs and purchase an LTVA permit.

EFFECTIVE DATE: September 15, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Lowans, Outdoor Recreation Planner, Yuma Field Office, 2555 East Gila Ridge Road, Yuma, Arizona 85365, telephone (520) 317–3210; or Anna Atkinson, Outdoor Recreation Planner, Palm Springs-South Coast Resource Area, 690 West Garnet Avenue, North Palm Springs, California 92258, telephone (760) 251–4800; or Kelly Bubolz, Outdoor Recreation Planner, El Centro Resource Area, 1661 South Fourth Street, El Centro, California 92243, telephone (760) 337-4400.

SUPPLEMENTARY INFORMATION: The purpose of the LTVA program is to provide areas for long-term winter camping use. The sites designated as LTVAs are, in most cases, the traditional use areas of long-term visitors. Designated sites were selected using criteria developed during the land management planning process, and environmental assessments were completed for each site location.

The program was established to safely and properly accommodate the increasing demand for long-term winter visitation and to provide natural resource protection through improved management of this use. The designation of LTVAs assures that specific locations are available for long-term use year after year, and that inappropriate areas are not used for extended periods.

Visitors may camp without an LTVA permit outside of LTVAs, on public lands not otherwise posted or closed to camping, for up to 14 days in any 28-day period.

Authority for the designation of LTVAs is contained in Title 43, Code of Federal Regulations, Subpart 8372, Sections 0–3 and 0–5(g). Authority for the establishment of an LTVA program is contained in Title 43, Code of Federal Regulations, Subpart 8372, Section 1, and for the payment of fees in Title 36, Code of Federal Regulations, Subpart 71. The authority for establishing supplementary rules is contained in Title 43, Subpart 8365, Section 1–6. The LTVA supplementary rules have been developed to meet the goals of individuals resource management plans. These rules will be available in each local office having jurisdiction over the lands, sites, or facilities affected, and will be posted near and/or within the lands, sites, or facilities affected. Violations of supplementary rules are punished by a fine not to exceed $100,000 and/or imprisonment not to exceed 12 months.

The following are the supplemental rules for the designated LTVAs and are in addition to rules of conduct set forth in Title 43, Code of Federal Regulations, Subpart 8365. 0–1 through 1–7.

The following supplemental rules apply year-long to all public land users who enter the LTVAS.

1. *The permit.* A permit is required to camp in a designated LTVA between September 15 and April 15. The permit authorizes the permittee to camp within any designated LTVA using the camping or dwelling unit(s) indicated on the permit between the period from September 15 to April 15. There are two types of permits: Long-term and short-visit. The long-term permit fee is $100.00, U.S. funds only, for the entire season and any part of the season. The short-term permit is $20.00 for seven (7) consecutive days. The short-visit permit may be renewed an unlimited number of times for the cost of $20.00 for seven consecutive days. *No refunds are made on permit fees.*

2. The Permit. To be valid, the short-visit permit decal or long-term permit decal must be affixed at the time of purchase, with the adhesive backing, to the bottom right-hand corner of the windshield of all transportation vehicles and in a clearly visible location on all camping units. A maximum of two (2) secondary vehicles is permitted.

3. Permit Transfers. The permit may not be reassigned or transferred by the permittee.

4. Permit Revocation. An authorized BLM officer may revoke, without reimbursement, any LTVA permit issued to any person when the permittee violates any BLM rule or regulation, or when the permittee, permittee's family, or guest's conduct is inconsistent with the goal of BLM's LTVA Program. Failure to return any LTVA permit to an authorized BLM officer upon demand is a violation of this supplemental rule. Any permittee whose permit is revoked must remove all property and leave the LTVA system within 12 hours of notice. The revoked permittee will not be allowed into any other LTVA in Arizona or California for the remainder of the LTVA season.

5. Unoccupied Camping Units. Camping units or campsites must not be left unoccupied within any LTVA for periods of greater than 5 days unless approved in advance by an authorized BLM officer.

6. Parking. For your safety and privacy, you must maintain a minimum of 15 feet of space between dwelling units.

7. Removal of Wheels and Campers. Campers, trailers, and other dwelling units must remain mobile. Wheels must remain on all wheeled vehicles. Pickup campers may be set on jacks manufactured for that purpose.

8. Quiet Hours. Quiet hours are from 10 p.m. to 6 a.m. in accordance with applicable state time zone standards, or as otherwise posted.

9. Noise. Operation of audio devices or motorized equipment, including generators, in a manner that makes unreasonable noise as determined by the authorized BLM officer is prohibited. Amplified music is allowed

only within La Posa and Imperial Dam LTVAs and only in locations designated by BLM or when approved in advance by an authorized BLM officer.

10. Access. Do not block roads or trails commonly in public use with your parked vehicles, stones, wooden barricades, or by any other means.

11. Structures and Landscaping. Fixed structures of any type are prohibited and temporary structures must conform to posted policies. This includes, but is not limited to fences, dog runs, storage units, and windbreaks. Alterations to the natural landscape are not allowed. Painting rocks or defacing or damaging any natural or archaeological feature is prohibited.

12. Livestock. Boarding of livestock (horses, cattle, sheep, goats, etc.) within LTVA boundaries is permitted only when approved in advance by an authorized BLM officer.

13. Pets. Pets must be kept on a leash at all times. Keep an eye on your pets. Unattended and unwatched pets may fall prey to coyotes or other desert predators. Pet owners are responsible for clean-up and sanitary disposal of pet waste.

14. Cultural Resources. Do not disturb any archaeological or historical values including, but not limited to, petroglyphs, ruins, historic buildings, and artifacts that may occur on public lands.

15. Trash. Place all trash in designated receptacles. Public trash facilities are shown in the LTVA brochure. Depositing trash or holding-tank sewage in vault toilets is prohibited. An LTVA permit is required for trash disposal within all LTVA campgrounds except for the Mule Mountain LTVA. The changing of motor oil, vehicular fluids, or disposal and possession of these used substances within an LTVA is strictly prohibited.

16. Dumping. Absolutely no dumping of sewage, gray water, or garbage on the ground. This includes motor oil and any other waste products: Federal, state, and county sanitation laws and county ordinances specifically prohibit these practices. Sanitary dump station locations are shown in the LTVA brochure. LTVA permits are required for dumping within all LTVA campgrounds except for the Midland LTVA.

17. *Self-Contained Vehicles.* In Pilot Knob, Midland, Tamarisk, and Hot Springs LTVAs, camping is restricted to self-contained camping units only. Self-contained units must have a permanent affixed waste water holding tank of 10-gallon minimum capacity. Port-a-potty systems, or systems which utilize portable holding tanks, or permanent holding tanks of less than 10-gallon capacity are not considered to be self-contained. The La Posa, Imperial Dam, and Mule Mountain LTVAs are restricted to self-contained camping units, except within 500 feet of a vault or rest room.

18. *Campfires.* Campfires are permitted in LTVAs subject to all local, state, and Federal regulations. Comply with posted rules.

19. *Wood Collection.* No wood collection is permitted within the LTVAs. A maximum of 1 cubic yard (3′×3′×3′) of firewood will be allowed per individual or group campfire at any one time. Please contact the nearest BLM office for current regulations concerning wood collection.

20. *Speed Limit.* The speed limit in LTVAs is 15 mph or as otherwise posted.

21. *Off-Highway Vehicle Use.* Motorized vehicles must remain on existing roads, trails, and washes.

22. *Vehicle Use.* It is prohibited to operate any vehicle in violation of state or local laws and regulations relating to use, standards, registration, operation, and inspection.

23. *Firearms.* The discharge or use of firearms or weapons is prohibited inside or within ½ mile of the LTVAs.

24. *Vending Permits.* Any commercial activity requires a vending permit. Please contact the nearest BLM office for information on vending or concession permits.

25. *Aircraft Use.* Landing or taking off of aircraft, including ultralights and hot air balloons, is prohibited in LTVAs.

26. *Perimeter Camping.* No camping is allowed within 1 mile of Hot Spring, Tamarisk, Pilot Knob LTVAs and within 2 miles of Midland LTVA.

27. *Hot Spring Spa and Day Use Area.* Food, beverages, glass containers, soap, and pets are prohibited within the fenced-in area at the Hot Springs Spa. Day use hours are 5 a.m. to midnight.

28. *Mule Mountain LTVA.* All camping within Wiley's Well and Coon Hollow campgrounds is restricted to designated sites only and is limited to one (1) camping or dwelling unit per site.

29. *Imperial Dam and La Posa LTVAS.* Overnight occupancy is prohibited in desert washes in Imperial Dam and La Posa LTVAs.

30. *La Posa LTVA.* Access to La Posa LTVA is restricted to legal access roads along U.S. Highway 95. Construction and use of other access points are prohibited. This includes removal or modification of barricades, such as fences, ditches, and berms.

31. *Posted Rules.* Observe all posted rules. Individual LTVAs may have additional specific rules. If posted rules differ from these supplemental rules, the posted rules take precedence.

32. *Other Laws.* LTVA permit holders are required to observe all Federal, state, and local laws and regulations applicable to the LTVA and shall keep the LTVA and, specifically, their campsite, in a neat, orderly, and sanitary condition.

33. *Length of Stay.* Length of stay in an LTVA between April 16 and September 14 is limited to 14 days in a 28-day period. After the 14th day of occupation campers must move outside of a 25-mile radius of the previous location.

Violation of these supplementary rules may result in revocation of the LTVA permit, issuance of a citation, and/or arrest which may require appearance before a U.S. Magistrate or penalties up to $100,000 and/or one-year imprisonment.

This notice is published under the authority of Title 43, Code of Federal Regulations, Subpart 8365, Section 1–6.

Dated: July 9, 1998.

Gail Acheson,

Field Manager, Yuma Field Office.

Julia Dougan,

Area Manager, Palm Springs-South Coast Resource Area.

Terry A. Reed,

Area Manager, El Centro Resource Area.

[FR Doc. 98–19209 Filed 7–22–98; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Request OMB Emergency Approval; Notice of Information Collection Under Review; New Collection; National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Enrollment Form.

The Department of Justice (DOJ), Federal Bureau of Investigation (FBI) has submitted the following information collection request (ICR) utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with 5 CFR 1320.13 (1)(i)(ii)(2)(iii) Emergency Processing of the Paperwork Reduction Act of 1995.

The proposed information collection is published to obtain comments from the public and affected agencies. OMB approval has been requested by July 27, 1998. If granted, the emergency

approval is only valid for 180 days. A copy of this ICR, with applicable supporting documentation, may be obtained by calling Allen Nash, Management Analyst, CJIS Division, Federal Bureau of Investigation, (304) 625–2750.

Comments and questions about the emergency information collection request should be forwarded to OMB, Office of Information and Regulatory Affairs, (202) 395–7316, Attention: Department of Justice Desk Officer, Room 10235, Office of Management and Budget, Washington, DC 20503.

During the first 60 days of this same period a regular review of this information collection is also being undertaken. Comments are encouraged and will be accepted until September 21, 1998. Written comments and suggestions from the public and affected agencies concerning the proposed colleciton of information should address one or more of the following four points.

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New data collection.

(2) *Title of the Form/Collection:* National Instant Criminal Background Check System (NICS) Federal Firearms Licensee Enrollment Form.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* None. Criminal Justice Information Service Division (CJIS), Federal Bureau of Investigation, 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 (Federally licensed firearms dealers, manufacturers, or importers). *Secondary:* None. *Brief Abstract:* The Brady Handgun Violence Prevention Act of 1994, requires the Attorney General to establish a national instant criminal background check system that any Federal Firearm Licensee may contact, by telephone or by other electronic means, for information, to be supplied immediately, on whether receipt of a firearm by a prospective purchaser would violate federal or state law. Information pertaining to licensees who may contact the NICS is being collected to plan and manage the NICS.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average repsondent to respond:* 60,000 Federal Firearms Licensees at an average of 30 minutes to respond.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 30,000 for start-up, 3,000 annually thereafter.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Allen Nash, Management Analyst, Federal Bureau of Investigation, CJIS Division, Module C–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, (304) 625–2738. Comments may also be submitted to the FBI via facsimile to (304) 625–5388.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530. Comments may also be submitted to DOJ via facsimile to (202) 514–1534.

Dated: July 17, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19603 Filed 7–22–98; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: New Information Collection: Screening Requirements of Carriers.

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is contained in the supplemental portion of a Final Rule (INS No. 1967–95) which INS published in the **Federal Register** on April 30, 1998 at 63 FR 23643. The final rule provided for a 60-day public comment period for the information collection. No comments were received by the INS on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 24, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Dan Chenok, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316,

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: New information collection.*

(2) *Title of the Form/Collection:* Screening Requirements of Carriers.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* No agency form number. Inspections Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Business or other for-profit. The information collection is used by the Immigration and Naturalization Service to determine whether sufficient steps are taken by a carrier demonstrating improvement in the screening of its passengers in order for the carrier to be eligible for automatic fines mitigation.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 65 responses at 100 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 6,500 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 17, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19599 Filed 7–22–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: New Information Collection: Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105–100).

The Department of Justice, Immigration and Naturalization Service (INS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 8, 1998 at 63 FR 25523, allowing for a 60-day public comment period. No comments were received by the INS on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 24, 1998. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Dan Chenok, Department of Justice Desk Officer, Room 10235, Washington, DC 20530; 202–395–7316,

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection: New information collection*

(2) *Title of the Form/Collection:* Application for Suspension of Deportation or Special Rule Cancellation of Removal (Pursuant to Section 203 of Public Law 105–100).

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form I–881. Asylum Division, Immigration and Naturalization Service.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. This form is used by nonimmigrants to apply for suspension of deportation or special rule cancellation of removal. The information collected on this form is necessary in order to determine if the individual applying for this benefit meets the criteria for eligibility under Section 203 of Public Law 105–100. The information collected on this form is also necessary in order for the INS to determine if it has jurisdiction over an individual applying for this benefit under section 203 of Public Law 105–100.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 300,000 responses at 12 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 3,600,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please contact Richard A. Sloan, 202–514–3291, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, U.S. Department of Justice, Room 5307, 425 I Street, NW., Washington, DC 20536. Additionally, comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time may also be directed to Mr. Richard A. Sloan.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW., Washington, DC 20530.

Dated: July 20, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19604 Filed 7–22–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office for Victims of Crime; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; Reinstatement, with change, of a previously approved collection for which approval has expired; Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from August 24, 1998. This process is conducted in accordance with 5 Code of Federal Regulations Part 1320,10.

Written 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 the Office of Management and Budget, Office of Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Written comments and suggestions from the public and affected agencies should address the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of This Information

(1) Type of information collection: Reinstatement, with change, of a previously approved collection for which approval has expired.

(2) The title of the form/collection: Victims of Crime Act, Victim Compensation Grant Program, State Performance Report.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Form number OJP ADMIN FORM 7390/6 Office for Victims of Crime, Office of Justice Programs, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: State government. Other: None.

The Victims of Crime Act, as amended and the Program Guidelines require each state crime victim compensation program to submit an annual Performance Report. Information received from each program is aggregated to form the basis of the OVC Director's report to the President and Congress on the effectiveness of the activities supported with Victims of Crime Act funds.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: 52 respondents to complete an annual report in 2 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: 104 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 19, 1998.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 98–19681 Filed 7–22–98; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Advisory Council on Employee Welfare and Pension Benefit Plans; Nominations for Vacancies

Section 512 of the Employee Retirement Income Security Act of 1974 (ERISA), 88 Stat. 895, 29 U.S.C. 1142, provides for the establishment of an "Advisory Council on Employee Welfare and Pension Benefit Plans" (the Council), which is to consist of 15 members to be appointed by the Secretary of labor (the Secretary) as follows: Three representatives of employee organizations (at least one of whom shall be representative of an organization whose members are participants in a multiemployer plan); three representatives of employers (at least one of whom shall be representative of employers maintaining or contributing to multiemployer plans); one representative each from the fields of insurance, corporate trust, actuarial counseling, investment counseling, investment management and accounting; and three representatives from the general public (one of whom shall be a person representing those receiving benefits from a pension plan). No more than eight members of the Council shall be members of the same political party.

Members shall be persons qualified to appraise the programs instituted under ERISA. Appointments are for terms of three years. The prescribed duties of the Council are to advise the Secretary with respect to the carrying out of his or her functions under ERISA, and to submit to the Secretary, or his or her designee, recommendations with respect thereto. The Council will meet at least four times each year, and recommendations of the Council to the Secretary will be included in the Secretary's annual report to the Congress on ERISA.

The terms of five members of the Council expire on November 14, 1998. The groups or fields they represented are as follows: employee organizations (multiemployer plans), accounting field, insurance field, employers and the general public.

Accordingly, notice is hereby given that any person or organization desiring to recommend one or more individuals for appointment to the ERISA Advisory Council on Employee Welfare and Pension Benefit Plans to represent any of the groups or fields specified in the preceding paragraph, may submit recommendations to Sharon Morrissey, Executive Secretary, ERISA Advisory Council, Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW, Suite N–5677, Washington, D.C. 20210. Recommendations must be delivered or mailed on or before October 1, 1998. Recommendations may be in the form of a letter, resolution or petition, signed by the person making the recommendation or, in the case of a recommendation by an organization, by an authorized representative of the organization. Each recommendation should contain a

detailed statement of the nominee's background.

Signed at Washington, D.C., this 17th day of July, 1998.

Meredith Miller,

Deputy Assistant Secretary of Labor, Pension and Welfare Benefits Administration.

[FR Doc. 98–19641 Filed 7–22–98; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Corps: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center Located Off Granite Road in Maple Heights, Ohio

AGENCY: Employment and Training Administration, Labor.

ACTION: Preliminary Finding of No Significant Impact (FONSI) for the New Job Corps Center to be located at the end of Granite Road in Maple Heights, Ohio.

SUMMARY: Pursuant to the Council on Environmental Quality Regulation (40 CFR Part 1500–08) implementing procedural provisions of the National Environmental Policy Act (NEPA), and the Department of Labor, Employment and Training Administration, Office of Job Corps, in accordance with 29 CFR 11.11(d), gives notice that an Environmental Assessment (EA) has been prepared and the proposed plans for a new Job Corps Center will have no significant environmental impact. This Preliminary Finding of No Significant Impact (FONSI) will be made available for public review and comment for a period of 30 days.

DATES: Comments must be submitted by August 24, 1998.

ADDRESSES: Any comment(s) are to be submitted to Amy Knight, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW, Room N–4659, Washington, DC 20210, (202) 219–5468 ext. 103 (this is not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Copies of the EA and additional information are available to interested parties by contacting Richard Trigg, Regional Director, Region V (Five), Office of Job Corps, 230 South Dearborn Street, Chicago, IL 60604, (312) 353–1311 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

The proposed development site is located approximately one and one quarter miles (1¼) south of the Maple Heights City Hall and is located at the end of Granite Road in Maple Heights, Cuyahoga County, Ohio. The proposed development site is located to the northeast of Granite Road and southeast of Pennsylvania Avenue. The EA indicates that the site is on an approximate 24 acre wooded and undeveloped parcel. The site is located in an urban, light industrial area with adjacent residential developments within one quarter (¼) of a mile. The property is currently owned by the Maple Heights Development Company. The site does not contain any structures, and historical aerial photographs indicate that the property has been wooded dating back to 1951.

The proposed Job Corps Center will be designed to accommodate approximately 430 Job Corps students (380 residential and 50 non-residential students). The proposed Center will consist of nine buildings, including dormitories, educational/vocational facilities, food service facilities, recreational facilities, administrative offices, storage and support facilities, with a total building area of 114,275 net square feet. The proposed project will be constructed in accordance with local fire and building code requirements.

The construction of the Job Corps Center on this undeveloped parcel would be a positive asset to the area in terms of environmental and socioeconomic improvements, and long-term productivity. The proposed Job Corps Center will be a new source of employment opportunity for people in the Maple Heights, Ohio area. The Job Corps program provides basic education, vocational skills training, work experience, counseling, health care and related support services. This program is designed to graduate students who are ready to participate in the local economy.

The proposed project will not have any significant adverse impact on any natural system or resource. There are no "historically significant" buildings on the site and no areas of archaeological significance. No threatened or endangered species have been located on the site.

Air quality and noise levels should not be affected by the proposed development project in the light industrial area in Maple Heights, Ohio. Due to the nature of the proposed project, it would not be a source of air pollutants or additional noise, except possibly during construction of the facility. The Ohio Environmental Protection Agency has indicated that construction of a Job Corps Center at the proposed site will not require permitting under Section 173 of the Clean Air Act. The proposed project site is located within the Cleveland-Akron-Lorain air quality region, which includes several non-attainment areas for the PM–10 and SO_2 National Ambient Air Quality Standards (NAAQS). The proposed Job Corps Center will not significantly increase the vehicle traffic in the vicinity, and will not be a significant source of air pollution.

The proposed project will not have any significant adverse impact on the surrounding infrastructure, represented by water, sewer and storm water systems. Water and sewage systems will be provided by the Northeast Ohio Regional Sewer District (NEORSD). These systems are readily accessible and should be sufficient to accommodate the new Job Corps Center. All wastewater treatment will be handled by NEORSD's Southerly Wastewater Treatment Facility. The Southerly plant is operating under an existing National Pollution Discharge Elimination System (NPDES) permit. Stormwater runoff from parking lots, sidewalks, and other structures will be managed in accordance with the requirements of the Ohio Department of Natural Resources (ODNR), and is not anticipated to adversely impact area water quality.

The proposed project site is located adjacent to an industrial park, thus electrical power will be easily accessible. The proposed demands on electrical power are not expected to have a significant adverse affect on the environment. Electric utilities and natural gas are provided by Centerior Energy.

Granite Road leads directly into the proposed project site. Granite Road connects to Lee Road, to the west, which leads to several other main thoroughfares within the City of Maple Heights. These roads can be used to access all aspects of the greater Cleveland area. Roadways will need to be constructed around the new Job Corps Center, but no significant adverse affects are expected. The traffic patterns will be monitored to insure a satisfactory movement of vehicles.

No significant adverse affects should be felt by the local medical, emergency, fire and police facilities. The closest medical facility, Bedford Medical Center, is located in the City of Bedford, approximately 1½ miles to the east of the proposed project site. The Job Corps Center will also have a small medical and dental facility on-site for use by the residents as necessary. Emergency, police and fire services will be provided by the City of Maple Heights, none of which will be adversely impacted by the Job Corps Center.

The proposed project population will not have a significant adverse

sociological effect on the Maple Heights community. This area is characterized by a fairly diverse ethnicity, and offers educational and recreational opportunities. Similarly, the proposed project will not have a significant adverse affect on demographic and socioeconomic characteristics of the area.

The alternatives considered in the preparation of this FONSI were as follows: (1) No Action; (2) Construction at an Alternate Site; and (3) Continue Construction as Proposed. The "No Action" alternative was not selected. The current Cleveland Job Corps Center is located in a run-down facility that is inadequate to meet the educational, residential, and recreational needs of the staff, faculty, and students at the Center. The "Alternate Site" alternative was not selected. The Department of Labor, Employment and Training Administration solicited proposals for relocation properties on two separate occasions, on February 1, 1997 and November 22, 1997. Of the eight sites reviewed by the Office of Job Corps, only the subject property was suitable for construction of a Job Corps Center.

Due to the inadequate facilities currently occupied by the Cleveland Job Corps Center, the lack of alternative construction sites, and the absence of any identified adverse environmental impacts from locating a Job Corps Center at the subject property, the "Continue Construction as Proposed" alternative was selected.

Based on the information gathered during the preparation of the EA, no environmental liabilities, current or historical, were found to exist on the proposed Job Corps Center site. It should be noted that no sampling of the soil, water or air was conducted during the preparation of the EA. The construction of a Job Corps Center on the undeveloped parcel located at the end of Granite Road in Maple Heights, Ohio, will not create any significant adverse impacts on the environment; however, the site is currently zoned as an industrial district.

Dated at Washington, DC, this 17th day of July, 1998.

Timothy F. Sullivan,

Acting Director of Job Corps.

[FR Doc. 98–19640 Filed 7–22–98; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (98–098]

Government-Owned Inventions, Available for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Availability of Inventions for Licensing.

SUMMARY: The inventions listed below are assigned to the National Aeronautics and Space Administration, have been filed in the United States Patent and Trademark Office, and are available for licensing.

DATE: July 23, 1998.

FOR FURTHER INFORMATION CONTACT: Guy M. Miller, Patent Counsel, Goddard Space Flight Center, Mail Code 750.2, Greenbelt, MD 20771; telephone 301–286–7351.

NASA Case No. GSC 13,915–1: Diode Laser Spectrometer Using Fiber Optic Granting Feedback;

NASA Case No. GSC 13,880–1: Position Finding Magnetometer For Space Application;

NASA Case No. GSC 13,817–2: Computer Implemented Empirical Mode Decomposition Method Apparatus and Article of Manufacture Utilizing Curvature Extrema;

NASA Case No. GSC 13,728–1: A Low Cost, Balloon Launched Remotely Piloted Vehicle For Meteorological Research.

NASA Case No. GSC 13,552–2: Pre-Coding Method and Apparatus For Multiple Source or Time-Shifted Single Source Data and Corresponding Inverse Post-Decoding Method And Apparatus.

Dated: July 17, 1998.

Edward A. Frankle,

General Counsel.

[FR Doc. 98–19646 Filed 7–22–98; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Renewal of Advisory Committee on Presidential Libraries

This notice is published in accordance with the provisions of section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.) and advises of the renewal of the National Archives and Records Administration's (NARA) Advisory Committee on Presidential Libraries. In accordance with Office of Management and Budget (OMB) Circular A–135, OMB approved the inclusion of the Advisory Committee on Presidential Libraries in NARA's ceiling of discretionary advisory committees. The Committee Management Secretariat, General Services Administration, also concurred with the renewal of the Advisory Committee on Presidential Libraries in correspondence dated June 11, 1998.

NARA has determined that the renewal of the Advisory Committee is in the public interest due to the expertise and valuable advice the Committee members provide on issues affecting the functioning of existing Presidential libraries and library programs and the development of future Presidential libraries. NARA will use the Committee's recommendations in its implementation of strategies for the efficient operation of the Presidential libraries. NARA's Committee Management Officer is Mary Ann Hadyka. She can be reached at 301–713–7360 x222.

Dated: July 20, 1998.

John W. Carlin,

Archivist of the United States.

[FR Doc. 98–19608 Filed 7–22–98; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company; Haddam Neck Plant; Exemption

I

Connecticut Yankee Atomic Power Company (CYAPCO or the licensee), is the holder of Facility Operating License No. DPR–61, which authorizes operation of Haddam Neck Plant (HNP). The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (the Commission) now or hereafter in effect. The facility is a pressurized-water reactor located on the licensee's site in Middlesex County, Connecticut. On December 5, 1996, the licensee informed the Commission by letter that it had decided to permanently cease operations at the HNP and that all fuel had been permanently removed from the reactor. In accordance with 10 CFR 50.82(a)(2), the certifications in the letter modified the facility operating license to permanently withdraw CYAPCO's authority to operate the reactor or to load fuel into the reactor vessel.

II

It is stated in 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," paragraph (a), that "The licensee shall establish and maintain an onsite physical protection system and security organization which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety."

By letter dated June 19, 1997, the licensee requested three exemptions from certain requirements of 10 CFR 73.55. Specifically, two of these exemptions are being granted at this time as follows: (1) 10 CFR 73.55(c)(1)—devitalization of vital areas and (2) 10 CFR 73.55(h)(3)—reduction of the security shift staffing. The proposed exemptiom is a preliminary step toward enabling CYAPCO to revise the Haddam Neck Security Plan under 10 CFR 50.54(p) to implement a defueled security plan that was developed to protect against radiological sabotage at a permanently shutdown reactor facility with all fuel stored in the spent fuel storage pool.

III

Pursuant to 10 CFR 73.5, "Specific exemptions," the Commission may, upon application of any interested person or upon its own initiative, grant such exemptions in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest. The Code of Federal Regulations at 10 CFR 73.55 allows the Commission to authorize a licensee to provide alternative measures for protection against radiological sabotage, as long as the licensee demonstrates that the proposed measures meet the general performance requirements of the regulation and that the overall level of system performance provides protection against radiological sabotage equivalent to that stated in the regulation.

The underlying purpose of 10 CFR 73.55 is to give reasonable assurance that adequate security measures can be taken in the event of an act of radiological sabotage. Because of its permanently shutdown and defueled condition, HNP presents a reduced radiological risk from that posed by an operating unit. With more than 500 days of radiological and heat decay since the plant was shut down on July 22, 1996, the potential source term of gaseous and volatile radionuclides associated with the remaining design-basis accidents and radiological sabotage has decreased substantially.

IV

For the foregoing reasons, the Commission has determined that the proposed alternative measures for protection against radiological sabotage meet the assurance objective and general performance requirements of 10 CFR 73.55 for a permanently shut-down reactor site that has placed all of its fuel in the spent fuel pool. In addition, the staff has determined that the overall level of the proposed system's performance, as limited by this exemption, would not result in a reduction in the physical protection capabilities for the protection of special nuclear material or of the HNP facility. Specifically, a limited exemption is being granted for two specific areas in which the licensee is authorized to modify the existing security plan commitments commensurate with the security threats associated with a permanently shutdown and defueled site: (1) devitalization of vital areas and (2) reduction of security shift staffing.

Accordingly, the Commission has determined that, pursuant to 10 CFR 73.5, this exemption is authorized by law, will not endanger life or property or the common defense and security, and is otherwise in the public interest. Therefore, the Commission hereby grants CYAPCO a limited exemption as described above from those requirements of 10 CFR 73.55 at HNP in its permanently defueled condition.

Pursuant to 10 CFR 51.32, the Commission has determined that this exemption will not have a significant effect on the quality of the human environment (63 FR 36969, July 8, 1998).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 15th day of July 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–19636 Filed 7–22–98; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Docket No. MC98–1; Order No. 1216]

Mail Classification Proceeding

(Authority: 39 U.S.C. 3623)

AGENCY: Postal Rate Commission.

ACTION: Notice and Order Concerning Request for Experimental Online Mailing Service and Fees, including Market Test.

SUMMARY: This notice and order addresses legal and administrative matters related to the Postal Service's request for expedited consideration of an experimental mail classification and fee schedule for an online mailing special service. The Service proposes that a market test of the proposed service precede introduction. The proposed duration of the experiment is 2 years.

DATES: See **SUPPLEMENTARY INFORMATION** section for dates.

ADDRESSES: **SEE SUPPLEMENTARY INFORMATION** section for address to which communications concerning this notice and order should be sent.

FOR MORE INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, 1333 H St., NW, Washington, DC 20268–0001, 202–789–6820.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on July 15, 1998, the United States Postal Service filed a Request with the Postal Rate Commission pursuant to sec. 3623 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*, for a recommended decision on proposed additions to the Domestic Mail Classification Schedule (DMCS) on an experimental basis. The request also incorporates a proposal for the establishment of associated new fees. The request includes attachments and is supported by the testimony of eight witnesses and four library references. It is on file in the Commission docket room and is available for inspection during the Commission's regular business hours. For interested persons who have access to the internet, the request and related documents are available on the Commission's home page at http://www.prc.gov/wsdocs/MC98–1/MC98–1.htm.

Proposed market test preceding establishment of experimental mail classification and fees.

The Postal Service indicates that it desires to conduct a market test of the proposed online mailing service prior to its introduction as an experimental mail classification. The Service proposes to conclude a current operations test [1] and

[1] According to the request, the Postal Service currently is conducting an operations test of the proposed Mailing Online service with one postal web server, one printer contractor, and a maximum of 200 customers located in Tampa, FL and Hartford, CT. Test customers currently pay the single-piece First-Class rate for mailing, but no additional fee for production of the mailpiece entered into the postal system. Request at 2.

begin a more extensive market test of the service, at interim fees to be recommended by the Commission, in early September of this year. Postal Service Request at 2–3.

Under the Service's proposal, the market test would be conducted while the Commission considers its request to establish Mailing Online as an experimental service. The interim market test fees would remain in effect pending the Commission's issuance of a recommended decision on the proposed experimental mail classification, and would expire upon implementation of the requested experimental service, or within 3 months of a decision rejecting the latter proposal. In a separate motion filed by the Postal Service, which is described in more detail below, the Service states that its "preferred objective for this experiment is to have it recommended by the Commission by the end of November, 1998." [2] In the event the Commission recommends the experimental classification and associated fees, the Service anticipates that they will be implemented together with the new rates and fees that the Governors of the Postal Service have resolved to put into effect on January 10, 1999, in connection with Docket No. R97–1. The Service proposes that the experimental service have a duration of 2 years.

Description of Request

The proposed Mailing Online service would enable individuals and organizations with access to a personal computer and an internet connection to transmit documents created on their computers to the Postal Service in digital form for printing and entry as mail, paying online in a single transaction. Users would transmit digital document files generated in any of several selected word processing and desktop publishing applications, together with recipient information and other data, to a designated Postal Service site on the world wide web. The Service would offer users a number of choices regarding printing and finishing specifications, customization of output by recipient variables in the user's database, and scheduling of a specific mailing date.

Users of the proposed Mailing Online service would be charged existing postage rates for mailing, plus a fee for production and other pre-mailing services. Depending upon the character of the material being sent and the user's service preference, mail pieces generated by the Mailing Online service would be charged postage at either the First-Class or standard mail automation basic rates applicable to the finished mail piece.[3]

In lieu of specific unit fees for the Mailing Online special service, the Postal Service proposes what might be described as a "cost plus" approach to fee calculation. For the duration of the market test, the Service proposes that fee elements be set at the unit contract cost of the respective service feature to the Postal Service, multiplied by a factor of 1.25 to provide a resulting cost coverage of 125 percent. According to the Service, these various costs will be established in the Mailing Online printer contract to be awarded during August 1998. For the subsequent experimental service phase, the Service proposes fees to be calculated by multiplying the sum of printer contractual costs for the particular mailing [4] by the same 125 percent cost coverage, then adding 0.1 cent per impression to recover other Postal Service costs. Postal Service Request, Attachment B1, page 2; Attachment B2, page 1.

Expedited Consideration of the Request

The Service's request invokes the operation of two independent portions of the Commission's rules of practice and procedure which provide for expedited consideration of requests for particular types of mail classification changes. The first of these, encompassing rules 67 through 67d (39 CFR 3001.67 through 3001.67d), applies to requests for new services or mail classification changes that are experimental in character. These rules provide for the adoption of streamlined procedures for considering such requests, and require participants to identify the genuine issues of material fact raised by the Postal Service proposal in order to limit formal hearings to those issues. 39 CFR 3001.67a. They also provide for establishment of a procedural schedule that will allow issuance of a recommended decision within 150 days from any favorable determination the Commission may make as to the propriety of treating the Postal Service proposal as experimental. 39 CFR 3001.67d.

In connection with the proposed interim market test, the Postal Service also invokes the operation of subpart I of the rules of practice, 39 CFR 3001.161 through 3001.166. The purpose of these expedited procedures, as stated in 39 CFR 3001.164, "is to allow for consideration of proposed market tests within 90 days, consistent with the procedural due process rights of interested persons." Section 3001.163(e) requires any participant who wishes to dispute a genuine issue of material fact presented by the Service's request to identify facts it will controvert with specificity, and provides for formal hearings only when the Commission determines that there is a genuine and material factual issue to be resolved, and that a hearing is needed for that purpose.

According to the Service, its request is suitable for consideration under both the experimental service and market test rules. Mailing Online service qualifies for consideration under the market test rules, the Service states, because the proposed test would be modest in scope, scale, duration, and potential impact, and because it is being conducted "as a stepping stone to a more permanent service offering." Request at 5. (Footnote omitted.) The proposed service also qualifies for consideration as an experiment, the Service submits, in view of its novelty as an electronic means of presenting documents for entry into the mail; the modest anticipated magnitude of its impact upon postal costs and revenues, and the mailing costs and practices of mail users; the need to gather information suitable for supporting a request for a permanent mail classification change; and the desirability of a two-year experiment to generate cost and volume information, as well as to demonstrate the viability of the service. Id. at 6–7.

In a separate notice dated July 15, 1998, a copy of which was filed with its request, the Postal Service certifies that it has complied with the early notification requirement specified for requested market tests in 39 CFR 3001.163(d).

Motion for Expedition and Waiver of Certain Provisions

The Postal Service's request was also accompanied by a pleading captioned, "Motion of the United States Postal Service for expedition, and for waiver of certain provisions of rule 161 and

[2] Motion of the United States Postal Service for expedition and for waiver of certain provisions of rule 161 and certain provisions of rule 64(h), July 15, 1998, at 1.

[3] In addition to offering Mailing Online users the opportunity to use First-Class Mail or standard mail regular rates, a witness for the Postal Service states in part of its pre-filed testimony that the Service is developing a means for verifying the eligibility of mailers with standard nonprofit permits, so that they may use the service to mail at standard nonprofit rates.

[4] The Postal Service anticipates that printing costs may vary substantially by region because of differing levels of labor and real estate costs. Thus, a Mailing Online user whose documents are sent to a printing site located in a higher-cost area would likely pay higher fees than if the same services were performed by a printer in a lower-cost area.

certain provisions of rule 64(h)." In this pleading, the Service asks the Commission to accelerate the expedited consideration of its request provided by the experimental service rules to achieve the Postal Service's preferred objective of issuance of a decision by the end of November 1998. According to the Service, the accelerated procedural schedule it seeks is required to allow it "to explore the possibility that major software developers could integrate Mailing Online into impending updates of software in order to make the service widely and easily available to individual, small-office, and home-office mailers." Motion at 2. Additionally, the Service notes, a Commission decision no later than the end of November would accommodate the Service's planned deployment schedule that calls for nationwide customer access to Mailing Online service in January 1999. Ibid.

The Service's motion also requests that portions of Commission rules 161 and 64(h) be waived in this case. To the extent that rule 161(a) could be read to require the filing of a contemporaneous request for a permanent classification change as a prerequisite for a market test, the Postal Service requests a waiver of that requirement so that it may go forward with the market test at interim fees to be recommended by the Commission. Id. at 2–3. Pursuant to rule 64(h)(3), the Service also asks to be relieved of the obligation to produce certain information regarding cost and revenue effects of its proposal, on the grounds that its proposal would not change any existing rates or fee, or produce a significant impact upon the cost-revenue relationships of existing postal services. Id. at 5–7. Specifically, the Service seeks waiver of rules 54(b)(3) in part, 54(f)(2), 54(f)(3), 54(h), 54(j), and 54(l) in part. Id. at 8–9.

Further Procedures; Filing Address

Rule 163(b) provides that interested persons may intervene in proceedings to consider Postal Service requests to conduct a market test within 28 days after the Service's filing. Accordingly, anyone wishing to be heard in this matter is directed to file a written notice of intervention with Margaret P. Crenshaw, secretary of the Commission, 1333 H Street NW, Suite 300, Washington, DC 20268–0001, on or before August 12, 1998. Intended participants should indicate whether they request formal intervention or limited participator status. *See* 39 CFR 3001.20 and 3001.20a.

Rule 163(e) [39 CFR 3001.163(e)] states that the Commission will hold hearings on a Postal Service request for a market test "when it determines that there is a genuine issue of material fact to be resolved, and that a hearing is needed to resolve that issue." To assist that determination, the same subsection directs parties who wish to dispute a genuine issue of material fact to file a request for a hearing, which:

> shall state with specificity the fact or facts set forth in the Postal Service's filing that the party disputes, and when possible, what the party believes to be the true fact or facts and the evidence it intends to provide in support of its position.

Ibid.

Any participant who wishes to dispute a genuine issue of material fact to be resolved with regard to the Postal Service's proposed market test in this proceeding shall file a request for a hearing as specified in rule 163(e) by August 12, 1998. In order to assist the Commission's determination of whether a hearing is necessary, should any written discovery be directed to the Postal Service by a participant before August 12, 1997, the Postal Service shall respond within 10 days.

With regard to the Service's longer-term request to establish Mailing Online service as an experimental mail classification, rule 67(c) provides that the Commission will entertain representations by participants that the proposal should not be considered as an experiment, and should follow the normal mail classification change procedures. Any participant intending to make such a representation shall do so by pleading no later than August 12, 1998.

In addition, rule 67a(b) requires parties to proceedings in which the Postal Service seeks a classification change it denominates as experimental in character to file statements of the issues they perceive in the case at the earliest possible time following the filing of the Service's request, or following a determination that the proposed change is experimental in character. In view of the Service's motion for extraordinarily expeditious consideration of its proposal, participants' statements of issues shall also be due no later than August 12, 1998.

A prehearing conference will be held in this proceeding on Friday, August 14, 1998, at 9:30 a.m. in the Commission's hearing room. Participants should be prepared to discuss what formal procedures, including hearings, may be necessary and appropriate in this docket. In addressing the issue of appropriate procedures in this docket, participants should also be prepared to address the potentially different procedural requirements presented by the Postal Service's market test proposal and its request for establishment of Mailing Online as an experimental service. If the Commission determines that formal hearings to resolve genuine issues of material fact are required for either or both, hearings to evaluate the supporting evidence presented by the Postal Service may be scheduled to begin as soon as August 26, 1998. The presiding officer will establish subsequent procedural dates.

Representation of the General Public

In conformance with 39 U.S.C. 3624(a), the Commission designates W. Gail Willette, acting Director of the Commission's office of the consumer advocate (OCA), to represent the interests of the general public in this proceeding. Pursuant to this designation, Ms. Willette will direct the activities of Commission personnel assigned to assist her and, when requested, will supply their names for the record. Neither Ms. Willette nor any of the assigned personnel will participate in or provide advice on any Commission decision in this proceeding. The OCA shall be separately served with three copies of all filings, in addition to and contemporaneous with, service on the Commission of the 24 copies required by rule 10(c) (39 CFR 3001.10(c)).

It is ordered:

1. The Commission will sit en banc in this proceeding.

2. Notices of intervention shall be filed no later than August 12, 1998.

3. Participants who wish to request a hearing on the Postal Service's request in this docket to conduct a market test shall submit such a request, together with statements in conformance with 39 CFR 3001.163(e), no later than August 12, 1998.

4. Statements of issues presented by the Postal Service's request in this docket to establish a Mailing Online experimental mail classification in conformance with 39 CFR 3001.67a(b) shall be filed no later than August 12, 1998.

5. Answers to the Postal Service's motion for expedition and for waiver of certain provisions of rule 161 and certain provisions of rule 64(h) are to be submitted no later than August 12, 1998.

6. The Postal Service shall provide, within 10 days, responses to any written discovery requests submitted to it before August 12, 1998.

7. W. Gail Willette, acting director of the Commission's OCA, is designated to represent the general public.

8. A prehearing conference in this docket shall be held on Friday, August 14, 1998, at 9:30 a.m. in the Commission's hearing room.

9. The Secretary shall cause this notice and order to be published in the Federal Register.

Dated: July 20, 1998.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–19666 Filed 7–22–98; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23317; File No. 812–10896]

Equitable Life Insurance Company of Iowa, et al.; Notice of Application

July 16, 1998.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of application for an order of approval pursuant to Section 26(b) of the Investment Company Act of 1940 (the "1940 Act") and an order granting exemptive relief pursuant to Section 17(b) of the 1940 Act.

SUMMARY OF APPLICATION: Applicants seek an order pursuant to Section 26(b) of the 1940 Act approving the substitution of shares of certain portfolios of the GCG Trust for shares of certain portfolios of the ESS Trust. Applicants also seek an order, pursuant to Section 17(b) of the 1940 Act, granting exemptions from Section 17(a) to permit Applicants to carry out the substitutions by means of in-kind redemption and purchase transactions, and to permit Applicants to combine certain subaccounts holding shares of the same substitute fund after the substitutions.

APPLICANTS: Equitable Life Insurance Company of Iowa ("Equitable"), Equitable Life Insurance Company of Iowa Separate Account A ("Equitable Separate Account A"), Golden American Life Insurance Company ("Golden American"), Golden American Life Insurance Company Separate Account A ("Golden American Separate Account A"), Golden American Life Insurance Company Separate Account B ("Golden American Separate Account B"), First Golden American Life Insurance Company of New York ("First Golden"), First Golden American Life Insurance Company of New York Separate Account NY–B ("First Golden Separate Account NY–B"), The GCG Trust ("GCG Trust"), and the Equi-Select Series Trust ("ESS Trust") (collectively, "Applicants").

FILING DATES: The application was filed on December 15, 1997, and amended and restated on March 18, 1998, and July 2, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 10, 1998, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing request should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, Marilyn Talman, Esquire, Golden American Life Insurance Company, 1001 Jefferson Street, Suite 400, Wilmington, DE 19801.

FOR FURTHER INFORMATION CONTACT: Megan Dunphy, Attorney, or Mark C. Amorosi, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. Equitable and Golden American are stock life insurance companies organized under the insurance laws of Iowa and Delaware, respectively. Each is authorized to write variable annuity and variable life insurance policies in at least 48 states and the District of Columbia. First Golden is a stock life insurance company organized under the insurance laws of the state of New York, and is authorized to write variable annuity contracts in New York. Equitable, Golden American and First Golden (collectively, "Applicant Insurance Companies") are indirect wholly owned subsidiaries of ING Groep, N.V. ("ING"), a global financial services holding company.

2. Equitable Separate Account A, Golden American Separate Account A, Golden American Separate Account B and First Golden Separate Account NY–B (collectively "Applicant Separate Accounts") are separate accounts for which one of the Applicant Insurance Companies serves as the sponsor and depositor. Equitable serves as sponsor and depositor of Equitable Separate Account A; Golden American serves as sponsor and depositor of Golden American Separate Account A and Golden American Separate Account B; First Golden serves as the sponsor and depositor of First Golden Separate Account NY–B. Each Applicant Separate Account is a segregated asset account of its insurance company sponsor and each is registered under the 1940 Act as a unit investment trust.

3. Each Applicant Separate Account serves as a funding vehicle for certain variable annuity or variable life insurance contracts (collectively, "Variable Contracts") issued by the Applicant Insurance Company of which it is a part. Applicant Separate Accounts are divided into separate subaccounts, each dedicated to owning shares of a designated investment portfolio of either the GCG Trust (the "GCG Subaccounts") or the ESS Trust ("ESS Subaccounts"). Holders of any Variable Contracts ("Contractholders") may select one or more of the investment options available under the Variable Contract held by allocating premiums payable under such contract to that subaccount of the relevant Applicant Separate Account that corresponds to the investment option desired.

4. The ESS Trust is registered under the 1940 Act as an open-end, management, services investment company and currently offers nine investment portfolios. Of these portfolios, five—Growth & Income, OTC, Total Return, Value+Growth and Research Portfolios—invest primarily in equity securities. The remaining portfolios—Advantage, Mortgage-Backed Securities, International Fixed Income and Money Market Portfolios—invest primarily in fixed income securities. Overall management services are provided to the ESS Trust and each of its individual series by Directed Services, Inc. ("DSI"), an indirect, wholly owned subsidiary of ING. DSI is an investment adviser registered under the Investment Advisers Act of 1940 ("Advisers Act") and a broker-dealer registered under the Securities Exchange Act of 1934.

5. The GCG Trust is registered under the 1940 Act as an open-end, management, series investment company. The GCG Trust offers shares of twenty two separate investment series, including six new investment series created in anticipation of the

issuance of the Commission order requested in the application and two existing investment series that also will be involved in the substitutions described in the application. The new series include (1) five series the investment objectives and policies of which will be identical to those of the Growth & Income, Total Return, Value+Growth, Research and International Fixed Income Portfolios currently offered by ESS Trust; and (2) a new series, MidCap Growth Series, that will have investment objectives and policies substantially similar to those of the OTC Portfolio currently offered by the ESS Trust. The existing series include the Liquid Asset Series and the Limited Maturity Bond Series. Applicants state that these series have investment objectives and policies similar to those of the portfolios which they will replace.

6. Overall management services are provided to the GCG Trust by DSI. Under the terms of an investment advisory agreement between GCG Trust and DSI ("GCG Trust Management Agreement"), DSI manages the business and affairs of each of the several series of the GCG Trust, subject to the control of the Board of Trustees. Under the GCG Trust Management Agreement, DSI is entitled to receive a fee ("Unified Fee") for its services from each series of the GCG Trust from which fee DSI pays the fees of any subadviser or other service providers. The Unified Fee is calculated for each GCG Series on a percentage of assets basis and in accordance with schedules that provide, for some of the GCG Series, fee reductions at specified asset levels or "break points." On feature of the Unified Fee is that certain of the GCG Series are grouped together for the purpose of determining whether a break point has been reached. As a result, a GCG Series that is part of a designated fee group is likely to realize a reduction in the fee payable to DSI more quickly than might otherwise be the case.

7. Applicant Insurance Companies have approved a proposal whereby the ESS Subaccounts would substitute for securities issued by each portfolio of the ESS Trust (each, a "Replaced ESS Portfolio"), securities of a designated series of the GCG Trust (each, a "Substitute GCG Series"). Following these transactions (collectively, the "Substitutions"), Equitable Separate Account A will have two subaccounts holding shares of the GCG Limited Maturity Bond Series and will combine these subaccounts by transferring shares at net asset value on the same date from one subaccount to the other. The several Substitutions are set forth in Table 1.

TABLE 1

	ESS replaced portfolio	Substitue GCG series
1	Growth & Income Portfolio	Growth & Income Series.
2	Research Portfolio	Research Series.
3	Total Return Portfolio	Total Return Series.
4	Value+Growth Portfolio	Value+Growth Series.
5	International Fixed Income Portfolio	Global Fixed Income Series.
6	OTC Portfolio	Mid-Cap Growth Series.
7	Money Market Portfolio	Liquid Assets Series.
8	Mortgage-Backed Securities Portfolio	Limited Maturity Bond Series.
9	Advantage Portfolio	Limited Maturity Bond Series.

8. Applicants state that, for each of the Substitutions numbers 1–5 in Table 1 above, the respective Substitute GCG Series are "mirror" series of the respective Replaced ESS Portfolios. Applicants have concluded that, with respect to each Substitution, the investment objectives and policies of the Substitute GCG Series are either identical to, or sufficiently similar to, those of the Replaced ESS Portfolios to assure that the essential objectives and risk expectations of Contractholders with interests in any ESS Subaccount ("Affected Contractholders") can continue to be met. Additionally, Applicants state that each Substitute GCG Series will be provided with portfolio management services by the same investment advisory organization that currently serves the Replaced ESS Portfolio.

9. Applicants state that the Substitutions and the related combination of subaccounts are part of an overall business plan of Applicant Insurance Companies to make their respective products, including the Variable Contracts, more competitive and more efficient to administer and oversee. Applicants state that, while DSI currently provides virtually identical management services to ESS Trust and GGG Trust, performance of these services are governed by two different agreements. Service provided to ESS Trust are performed pursuant to the ESS Trust Management Contract, which requires the Trust (not DSI) to pay for services provided by third-party service organizations, such as custody, fund accounting, and transfer agency fees and fees for legal and auditing expenses. In contrast, services provided by DSI under the GGG Trust Management Agreement are offered under the Unified Fee arrangement under which DSI is responsible for paying virtually all of the expenses associated with managing GGG Trust, including the fees of third-party service organizations.

10. Applicant Insurance Companies represent that the Substitutions are appropriate for the following reasons: (1) The implementation of the Unified Fee, with respect to each of the Substitute GGG Series, is likely to result in certain economies of scale, which savings will insure to the benefit of the Affected Contractholders generally and, in the case of seven of the nine ESS Portfolios involved in the Substitutions, will result in an immediate reduction in the fees currently borne by Affected Contractholders; (2) the Substitutions will eliminate certain portfolios with insufficient assets to remain cost efficient; and (3) the Substitutions will reduce the overlap among the investment options associated with the variable insurance products offered by Applicant Insurance Companies and thus reduce the potential for confusion among Contractholders and prospective investors.

11. Applicants state that, as of the effective date of the Substitutions ("Effective Date"), each Substitution will be effected by the Applicant Insurance Companies by redeeming shares of the Replaced ESS Portfolios at net asset value and using the proceeds of such redemptions, which will be effected in-kind, to purchase the appropriate number of shares of the Substitute GGG Series at net asset value. Applicant Insurance Companies state that they will bear the costs of the Substitutions, including any legal, accounting, brokerage, and other fees

and expenses relating to the Substitutions, and that Affected Contractholders will not incur any additional fees or charges as a result of the Substitutions, nor will their rights or the obligations under any of the Variable Contracts diminish in any way. Applicants state that all redemptions of shares of the Replaced ESS Portfolios and purchases of shares of the Substitute GGG Series will be effected in accordance with Rule 22c–1 under the 1940 Act. Applicants further state that the Substitutions will not result in any adverse tax consequences to the Affected Contractholders, any change in the economic interest or contract values of any Affected Contractholder or any change in the dollar value of any Variable Contract held by an Affected Contractholder.

12. Applicants state that Affected Contractholders have been notified of this Application by means of prospectus supplements. Applicants represent that prior to the Effective Date, each Affected Contractholder will be furnished with a copy of a prospectus relating to each of the Substitute GGG Series, if one has not already been forwarded to Affected Contractholders, and a notice setting forth the Effective Date for the Substitutions. The notice will also advise Affected Contractholders that contract values attributable to investments in the Replaced ESS Portfolios may be transferred to any other available subaccount without charge, either prior to, or within 30 days after the Effective Date.

13. Applicants state that each Applicant Insurance Company will furnish Affected Contractholders with a confirmation of the substitutions within five business days of the Substitution that shows before and after account values and details the transactions effected on behalf of the respective Affected Contractholder in connection with the Substitutions.

14. Applicants maintain that the combination of the two subaccounts of Equitable Separate Account A that hold shares of the Limited Maturity Bond Series will not have any impact on the value of the Variable Contracts involved, the fees or rights of the Affected Contractholders, or diminish in any way the obligations of Equitable or any other Applicant Insurance Company under any Variable Contract. Equitable will bear the costs of such combination, including any legal or accounting fees relating to them, and the Affected Contractholders will not incur any fees or charges as a result of such combination. In addition, the subaccount combination will not result in any adverse tax consequences to the Affected Contractholders, or any change in the economic interest or contract values of any Affected Contractholder.

Terms of the Substitutions and Related Transactions

The significant terms of the Substitutions described in the application include:

1. The Substitute GGG Series have objective and policies sufficiently similar to the objectives and policies of the Replaced ESS Portfolio so that the objective of the Affected Contractholders can continue to be met.

2. With one exception, the expense ratios of the Substitute GGG Series will, immediately following the Effective Date, not exceed the expense ratios of the Replaced ESS Portfoios ("ESS Expenses Level"), absent significant decreases in the asset levels of such series. In the case of any Substitute GGG Series the expense ratio of which exceeds the ESS Expense Level immediately following the Effective Date, DSI will waive its fees and/or reimburse the expenses of the relevant Substitute GGG Series such that its expense ratio does not exceed the ESS Expense Level. DSI will continue to waive its fees and/or reimburse expenses, for each such Substitute GGG Series as necessary in accordance with this undertaking until December 31, 1999.

3. Affected Contractholders may transfer assets from any ESS Subaccount to any other subaccount available under the Variable Contract held without charge from the date of the notice that the ESS Portfolios will be substituted through a date at least 30 days following the Effective Date. Affected Contractholders may also withdraw amounts under any contract held or terminate their interest in any such contract, in accordance with the terms and conditions of any such contract, including but not limited to payment of any applicable surrender charge.

4. The Substitutions will be effected at the net asset value of the respective shares in conformity with Section 22(c) of the 1940 Act and rule 22c–1 thereunder, without the imposition of any transfer or similar charge by Applicants.

5. The Substitutions will take place at respective net asset value without change in the amount or value of any Variable Contract held by Affected Contractholders. Affected Contractholders will not incur any fees or charges as a result of the Substitutions, nor will their rights or the obligations of Applicant Insurance Companies under such Variable Contracts be altered in any way. All expenses incurred in connection with the Substitutions, including legal, accounting and other fees and expenses, will be borne by Applicant Insurance Companies or their subsidiaries.

6. Redemptions in kind will be handled in a manner consistent with the investment objectives, policies and diversification requirements of the GCG Substitute Series. Consistent with Rule 17a–7(d) under the 1940 Act, no brokerage commissions, fees (except customary transfer fees) or other remuneration will be paid by the ESS Replaced Portfolios, GCG Substitute Series, or Affected Contractholders in connection with the in-kind transactions.

7. The Substitutions will not be counted as transfers in determining the limit on the total number of transfers that Affected Contractholders are permitted to make under the Variable Contracts.

8. Neither the Substitutions nor the subsequent transactions will alter in any way the annuity, life or tax benefits afforded under the Variable Contracts held by any Affected Contractholder.

9. Each Applicant Insurance Company will send to its Affected Contractholders within five (5) business days of the Substitutions a written confirmation showing the before and after values (which will not have changed as a result of the Substitutions) and detailing the transactions effected on behalf of the respective Affected Contractholder with regard to the Substitititions.

Conditions of the Substitutions and Related Transactions

Applicants state that the Substitutions and related transactions described in the application will not be completed unless all of the following conditions are met:

1. The Commission shall have issued an order (i) approving the Substitutions under Section 26(b) of the 1940 Act; and (ii) exempting the in-kind redemptions and the combination of subaccounts from the provisions of Section 17(a) of the 1940 Act as necessary to carry out the transactions described in the application.

2. Each Affected Contractholder will have been sent (i) a copy of the effective prospectus relating to each of the Substitute GCG Series and any necessary amendments to the prospectuses relating to the Variable Contracts; and (ii) as soon as reasonably possible after the order has been issued and prior to the Effective Date, a notice describing the terms of the Substitutions and the rights of the Affected Contractholders in connection with the Substitutions.

3. Applicant Insurance Companies shall have satisfied themselves, that (i) the Variable Contracts allow the substitution of investment in the manner contemplated by the Substitutions and related transactions described herein; (ii) the transactions can be consummated as described in the application under applicable insurance laws; and (iii) that any regulatory requirements in each jurisdiction where the Variable Contracts are qualified for sale, have been complied with to the extent necessary to complete the transactions.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act prohibits any depositor or trustee of a unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution. Section 26(b) of the 1940 Act also provides that the Commission shall issue an order approving such substitution if the evidence establishes that the substitution is consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the 1940 Act.

2. Applicants request an order pursuant to Section 26(b) of the 1940 Act approving the substitutions. Applicants maintain that the Substitutions, if implemented, would not raise any of the concerns that Congress sought to address when the 1940 Act was amended to include this provision (e.g., that a substitution might force shareholders dissatisfied with the substituted security to redeem their shares, thereby possibly incurring additional sales or surrender charges.) Applicants also maintain that, subject to the terms and conditions summarized in this notice, the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

3. Section 17(a)(1) and (2) of the 1940 Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of an affiliated person, from selling to or purchasing a security from such registered investment company. Applicants may be deemed to be affiliates of one another based upon the definition of "affiliated person" in Section 2(a)(3) of the 1940 Act. Because the Substitutions and subsequent combination of subaccounts will be effected by means of an in-kind redemption and purchase, Applicants state that the Substitutions may be deemed to involve one or more purchases or sales of securities or property between a registered investment company and its affiliates.

4. Applicants request an order pursuant to Section 17(b) of the 1940 Act exempting the Substitutions and related transactions from the provisions of Section 17(a) of the 1940 Act. Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting proposed transactions from the prohibition of Section 17(a) if: (i) The terms of the proposed transaction, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policy of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act.

5. Applicants represent that the terms of the proposed transactions, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. Applicants maintain that the interests of Contractholders will not be diluted and that the Substitutions will not effect any change in economic interest, contract value, or the dollar value of any Variable Contract held by an Affected Contractholder.

6. Applicants also state that the Substitutions will take place in accordance with procedures, adopted by the Board of Trustees of each of the GCG Trust and the ESS Trust, respectively, designed to meet the requirements enumerated in Rule 17a–7 under the 1940 Act, except that transactions be effected in cash. Although the relief afforded by Rule 17a–7 is not available in connection with the Substitutions, Applicants submit that structuring the Substitutions to comply with the requirements of that rule provides a strong basis upon which the Commission may base a finding that the standards necessary to grant an order of exemption pursuant to Section 17(b) of the 1940 Act have been satisfied.

7. Applicants represent that the transactions are consistent with the investment policy of each investment company involved, as recited in the current prospectus relating to each investment company, and the general purposes of the 1940 Act, and do not present any of the conditions or abuses that the 1940 Act was designed to prevent.

Conclusion

Applicants assert that, for the reasons summarized above, the requested order approving the Substitutions and related transactions should be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19651 Filed 7–22–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–23318; 812–11104]

The RBB Fund, Inc. and BEA Associates; Notice of Application

July 16, 1998.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 ("Act") for an exemption from section 12(d)(1)(G)(i)(II) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit a fund of funds relying on section 12(d)(1)(G) to invest directly in securities and other instruments.

APPLICANTS: The RBB Fund, Inc. (the "Company") and BEA Associates ("BEA"). The requested order also would extend to any existing or future open-end management investment company or series thereof advised by BEA (an "Upper Tier Fund") that wishes to invest in a registered open-end management investment company or series thereof that is advised by BEA and is part of the same "group of investment companies" (as defined in section 12(d)(1)(G)(ii) of the Act) (together with the series of the Company excluding the BEA Long-Short Equity Fund, the "Underlying Funds") as the investing Upper Tier Fund.[1]

FILING DATES: The application was filed on April 15, 1998. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on

[1] All existing entities that currently intend to rely on the order are named as applicants and any Upper Tier Fund that may rely on this order in the future will do so only in accordance with the terms and conditions of the application.

August 10, 1998, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants, 153 East 53rd Street, New York, New York 10022.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Staff Attorney, at (202) 942–0574, or Edward P. Macdonald, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee at the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. The Company, an open-end management investment company registered under the Act and organized as a Maryland corporation, currently consists of twenty-two series (the "Funds"). BEA, an investment adviser registered under the Investment Advisers Act of 1940, is the investment adviser for twelve of the Funds, including the BEA Long Short Equity Fund (the "Equity Fund") and the BEA Long-Short Market Neutral Fund (the "Market Neutral Fund").

2. The Equity Fund will seek a total return greater than that of the Standard & Poor's 500 Composite Stock Price Index (the "S&P 500 Index") by investing in shares of the Market Neutral Fund, while also investing in S&P 500 Index futures, options on S&P 500 Index futures, and equity swap contracts (collectively, "Index Securities"). The Market Neutral Fund seeks long-term capital appreciation while maintaining minimal exposure to general equity market risk by taking long positions in stocks that BEA has identified as undervalued and short positions that BEA has identified as overvalued. By investing in shares of the Market Neutral Fund, the Equity Fund seeks to add the return generated by the "market neutral strategy" of the Market Neutral Fund. The Equity Fund and the Upper Tier Funds would also like to retain the flexibility to invest in securities and financial instruments, including financial futures, swaps, reverse repurchase agreements, and options on currencies.

3. With respect to the Market Neutral Fund and the Equity Fund, BEA intends to reduce its advisory fees and bear certain expenses to the extent that each Fund's total annual operating expenses (excluding nonrecurring account fees and extraordinary expenses) exceed a specified percentage of net assets, and, in the case of the Market Neutral Fund, a performance adjustment will be applied to the advisory fee of the Market Neutral Fund. Any advisory fee that BEA charges to the Equity Fund or Upper Tier Funds will be for services that are in addition to, rather than duplicative of, services provided to the Market Neutral Fund and the Underlying Funds. Applicants believe that the proposed operation of the Equity Fund and Upper Tier Funds will benefit shareholders by lowering transaction and operational costs.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of other investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (a) The acquiring company and the acquired company are part of the same group of investment companies; (b) the acquiring company holds only securities of acquired companies that are part of the same group of investment companies, government securities, and short-term paper; (c) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) by a securities association registered under section 15A of the Securities Exchange Act of 1934 or the Commission; and (d) the acquired company has a policy that prohibits it from acquiring securities of registered open-end investment companies or registered unit investment trusts in reliance on section 12(d)(1)(F) or (G).

3. Applicants state that the proposed arrangement would comply with the provisions of section 12(d)(1)(G), but for the fact that the Equity Fund's investment policies contemplate that it will invest in Index Securities and other securities and financial instruments.

4. Section 12(d)(1)(J) provides that the SEC may exempt persons or transactions from any provision of section 12(d)(1) if and to the extent the exemption is consistent with the public interest and the protection of investors. Applicants believe that permitting the Equity Fund or other Upper Tier Funds to invest in securities as described in the application would not raise any of the concerns that the requirements of section 12(d)(1)(G) were designed to address.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Before approving any advisory contract under section 15 of the Act, the board of directors of the Company on behalf of the Equity Fund or Upper Tier Fund, including a majority of the directors who are not "interested persons" as defined in section 2(a)(19) of the Act, will find that advisory fees, if any, charged under such contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Fund's advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the Company's minute books on behalf of the Equity Fund or Upper Tier Fund.

2. Applicants will comply with all provisions of section 12(d)(1)(G) of the Act, except for section 12(d)(1)(G)(i)(II) to the extent that it restricts the Equity Fund or an Upper Tier Fund from investing in securities as described in the application.

For the SEC, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19650 Filed 7–22–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40201; File No. SR–AMEX–98–20]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Permanent Approval of the Exchange's Pilot Program for Specialists in Portfolio Depositary Receipts, Investments Trust Securities, and Index Fund Shares To Participate In the After-Hours Trading Facility

July 15, 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 June 9, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange"), filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The text of the proposed rule change is available at the Office of the Secretary, the Amex, 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 if received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange seeks permanent approval of the pilot program permitting specialists in Portfolio Depository Receipts[3] ("PDRs"), investment trust securities, and Index Fund Shares to participate in the after-hours trading ("AHT") facility to "clean-up" order imbalances and to effect closing price coupled orders.[4]

The Exchange believes that permanent approval of the Exchange pilot program to permit specialists in PDR's, investment trust securities, and Index Fund Shares to participate in the AHT facility in order to "clean-up" order imbalances and effect closing price coupled orders would benefit investors by providing additional liquidity to the listed cash market for derivative securities based upon well-known market indexes. The Amex maintains that investor interest in these securities is rapidly increasing, and specialist participation in the AHT session provides necessary liquidity after the close of the regular trading session. In addition, the market price of these exchange-trading funds is based upon transactions largely effected in markets other than the Amex. (In the case of Index Fund Shares, the market price of these securities is based exclusively on transactions occurring outside the Amex.) The specialist in the Amex listed securities has no unique access to market sensitive information regarding the market for the underlying securities or closing index values. The Exchange, therefore, believes that specialist participation in the AHT facility in PDRs, investment trust securities and Index Fund Shares in the manner previously approved by the Commission on a pilot basis does not raise any market integrity issues. In addition, should a customer not care for an execution at the closing price, the rules of the Exchange's AHT facility permit cancellation of an order up to the close of the AHT session at 5:00 p.m. (Orders in the AHT facility are not executed until the 5:00 p.m. close of the AHT session.) A customer, therefore, has approximately 40 minutes to determine if an execution at the closing price suits its need and may cancel its order if it believes that the closing price does not suit its objectives.

2. Basis

The Exchange believes 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 acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that proposed permanent approval of the pilot program would impose no 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange currently lists three Portfolio Depositary Receipts, viz., Depositary Receipts on the Standard and Poor's 500® and MidCap® Indexes, and Depositary Receipts on the Dow Jones Industrial Average™. The Exchange also lists 17 Index Fund Shares which are commonly referred to as WEBS℠. WEBS are shares issued by an open-end management investment company that seek to provide investment results that correspond generally to the price and yield performance of a specified foreign or domestic equity market index. The Exchange currently lists WEBS based on the following Morgan Stanley Capital International ("MSCI") indices: MSCI Australia Index, MSCI Austria Index, MSCI Belgium Index, MSCI Canada Index, MSCI France Index, MSCI Germany Index, MSCI Hong Kong Index, MSCI Italy Index, MSCI Japan Index, MSCI Malaysia Index, MSCI Mexico Index, MSCI Netherlands Index, MSCI Singapore (Free) Index, MSCI Spain Index, MSCI Sweden Index, MSCI Switzerland Index, and MSCI United Kingdom Index. (*See* SR–Amex–95–43.)

[4] The Commission originally approved the pilot program in Securities Exchange Act Release No. 34611 (Aug. 29, 1994), 59 FR 45739 (Sept. 2, 1994) ("Original Pilot Approval"). The pilot was scheduled to expire on August 29, 1995, but was extended for three successive one-year periods in Securities Exchange Act Release Nos. 36123 (Aug. 18, 1995), 60 FR 44519 (Aug. 28, 1995); 37529 (Aug. 6, 1996), 61 FR 41814 (Aug. 12, 1996); and 38986 (Aug. 17, 1997), 62 FR 46785 (Sept. 4, 1997). In the Original Pilot Approval and in each extension, the Commission requested that the Exchange submit a report and analysis regarding the operation of the pilot program. The Exchange did not submit a report until 1997, as specialists made little or no use of the pilot program until the period September 3, 1996 to May 30, 1997. The 1997 report stated that during that period, there were two trades for a total of 600 shares of PDRs in the AHT session for PDRs, index trust securities, and Index Funds Shares. *See* letter dated August 5, 1997, from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Michael Walinskas, Senior Special Counsel, SEC. The 1998 report stated that during the period June 1, 1997 to April 30, 1998, there were 12 trades for a total of 56,320 PDRs in the AHT session for PDRs, index fund securities, and Index Fund Shares. *See* letter dated June 8, 1998, from William Floyd-Jones, Jr., Assistant General Counsel, Amex, to Michael Walinskas, Senior Special Counsel, SEC.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–98–20 and should be submitted by August 24, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19572 Filed 7–22–98; 8:45am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40223; File No. SR–Amex–98–26]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc. Relating to the Listed Company Filings With the Exchange

July 16, 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 July 8, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("SEC or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Section 134, 1101 and 1102 of its Company Guide to cease requiring listed companies to file with the Exchange paper copies of material which they electronically file with the Commission. The Exchange also proposes to amend Section 402, 610, 623, 701, 922, 930 and 940 of the Company Guide to reduce, in certain instances, the number of copies of documents which must be filed with the Exchange. The Exchange further proposes to amend Section 210 to conform it to rule changes that the Commission adopted with respect to SEC Form 8–A.[3]

The text of the proposed rule change is available at the Office of the Secretary, the Amex, 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 Amex 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 Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Federal securities laws, companies listed on national securities exchanges are required to file with the Commission and their listed marketplace various reports including, for example, proxy statements and annual and interim financial reports. The Exchange's review of these filings plays a central role in the ongoing process of monitoring corporate transactions as well as in evaluating compliance with the Exchange's continued listing guidelines.

Over the past several years, the Commission has phased-in a requirement that domestic issuers file their reports electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system although certain documents, such as annual reports to shareholders, may, but are not required to be filed electronically. Similarly, non-U.S. issuers may, but are not required to, file electronically.

To relieve listed companies of the burden and cost of providing separate paper copies of their SEC filings to the Exchange, the Amex is proposing to amend Section 1101 of its Company Guide to provide that a company which files any of the specified documents with the Commission electronically will be deemed to have satisfied its comparable Exchange filing requirement.[4] The only exception will be for the EDGAR-optional annual reports to shareholders. The Exchange believes that since issuers' annual reports will continue to be mailed in hard copy to shareholders, it will not be burdensome to the listed companies to continue to provide paper copies to the Exchange. In addition, the Amex believes this distinction is appropriate because annual reports often contain relevant material which is not susceptible to electronic transmission.

Implementation of this proposal also requires that the Commission provide "no action" relief from the statutory requirements that exchange-listed issuers file copies of their filings directly with their marketplaces. The Exchange is submitting a request for such relief under separate cover.[5]

The Exchange believes that elimination of paper filings with the Exchange will not impair the Exchange's regulatory process since the Amex has a contractual arrangement with a commercial vendor which provides real-time access to the EDGAR

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38850 (July 18, 1997) 62 FR 39755 (July 24, 1997) (S7–15–96) (Adopting Phase 2 Recommendations of Task Force on Disclosure Simplification).

[4] The Amex represents that its "Guide to Filing Requirements" will be similarly amended.

[5] The proposed rule change, although immediately effective pursuant to Section 19(b)(3)(A), will not be implemented until the Exchange receives approval from the Commission of its related request for no action relief.

system [6] and will use that access to continue to monitor and review SEC filings made by listed companies.

The Exchange is also proposing to reduce, in certain instances, the number of copies which still need to be filed with the Exchange.[7] In addition, the Exchange is proposing to eliminate Section 1102 (and the reference to that section in Section 134) because part of Section 1102 is redundant of provisions otherwise found in the Company Guide and the balance more logically falls within Section 1101.

Finally, the Exchange is proposing to amend Section 210 to conform it to amendments which were adopted by the Commission with respect to SEC Form 8–A.[8]

2. Statutory Basis

The Amex believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act [9] in general and furthers the objectives of Section 6(b)(5) [10] in particular in that it is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no 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

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act,[11] and subparagraph (e) of Rule 19b–4 thereunder.[12] The Amex will not implement the proposed rule change until the Commission approves the Exchange's related request for no action relief providing, among other things, that exchange-listed issuers filing documents electronically through the EDGAR system need not file hard copies with the Exchange.

At any time within 60 days of the filing of such proposed 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–Amex–98–26 and should be submitted by August 13, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19648 Filed 7–22–98; 8:45 am]

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[6] The Exchange represents that it has obtained real-time access to all EDGAR filings made by Exchange-listed companies through a "Level 1" subscription with a commercial vendor. Telephone conversation between Claudia Crowley, Special Counsel, Amex, and Deborah Flynn, Division of Market Regulation, Commission, on July 16, 1998.

[7] The Commission notes that listed companies will continue to have to file with the Amex paper copies of certain documents that are not required by the Commission to be filed through EDGAR. Such documents include, for example, notices to shareholders and press release.

[8] *See* note 3, *supra*.

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A)(i).

[12] 17 CFR 240.19b–4.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40221; File No. SR–CBOE–98–21]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Minimum Opening Transaction Size in FLEX Equity Options

July 16, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on May 18, 1998, 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 CBOE proposes to change the required minimum value size for an opening transaction in any FLEX Equity Option [2] series which has no open interest, such that the minimum value size shall be the lesser of 250 contracts or the number of contracts overlying $1 million of the underlying securities.

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 CBOE included statements concerning the purpose of, and statutory 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 CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] FLEX equity options are flexible exchange-traded options contracts which overlie equity securities. In addition, FLEX equity options provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Purpose

The Exchange is proposing to change the minimum value size for opening transactions (other than FLEX Quotes responsive to a FLEX Request for Quotes) in any FLEX Equity Option series in which there is no open interest at the time the Request for Quotes is submitted. Currently, CBOE Rule 24A.4 states that the minimum value size for these opening transactions shall be 250 contracts. The Exchange is proposing to change this rule such that the minimum value size for these transactions shall be the lesser of 250 contracts or the number of contracts overlying $1 million of the underlying securities.

The Exchange is proposing this change because it believes the current rule is unduly restrictive. The rule was originally put in place in to limit participation in FLEX Equity options to sophisticated, high net worth individuals. However, the Exchange believes that limiting participation in FLEX Equity Options based solely on the number of contracts purchased may diminish liquidity and trading interest in FLEX Equity Options for higher priced equities. The Exchange believes the value of the securities underlying the FLEX Equity Options is an equally valid restraint as the number of contracts and if set at the right limit can also prevent the participation of investors who do not have adequate resources. In fact, the limitation on the minimum value size for opening transactions in FLEX Index Options is tied to the same type of standard, the underlying equivalent value.[3] The Exchange believes the number of contracts overlying $1 million in underlying securities is adequate to provide the requisite amount of investor protection. An opening transaction in a FLEX Equity series on a stock priced at $40.01 or more would reach this $1 million limit before it would reach the contract size limit, *i.e.*, 250 contracts times the multiplier (100) times the stock price ($40.01) totals $1,000,250 million in underlying value.[4] It should be noted that, currently, an investor can purchase 250 contracts in a FLEX Equity series on low priced stocks, meeting the minimum requirement without investing a minimum of $1 million. For example, a purchase of FLEX Equity Options overlying a $10 stock is permitted although the underlying value for the Options would be $250,000, *i.e.*, 250 contracts times the multiplier (100) times the stock price ($10).

Statutory Basis

The Exchange believes the proposed rule change is consistent with and furthers the objectives of Section 6(b)(5) of the Act[5] by facilitating transactions in securities, removing impediments to and perfecting the mechanism of a free and open market in securities and otherwise serving to protect investors and the public interest. The Exchange believes that the proposal maintains the current investor protection principles while providing more investors an opportunity to trade FLEX Equity Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. 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 that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principle office of the CBOE. All submissions should refer to the file number SR–CBOE–98–21 and should be submitted by August 13, 1998.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19649 Filed 7–22–98; 8:45 am]

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[3] The term "underlying equivalent value" is defined in CBOE Rule 24A.1(r) for FLEX Index options, but it is not a defined term for FLEX Equity options.

[4] Example amended per conversation between Gail Marshall-Smith, Division of Market Regulation, SEC, and Tim Thompson, CBOE, dated June 15, 1998.

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40215; File No. SR–CHX–96–21]

Self-Regulatory Organizations; Chicago Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Relating to "Stopped" Orders

July 15, 1998.

I. Introduction

On July 22, 1996, the Chicago Stock Exchange, Incorporated ("CHX" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a rule relating to the entry and execution of stop orders and to clarify its rules relating to stopped orders. On August 27, 1996, the CHX submitted to the Commission Amendment No. 1 to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change,[3] on February 19, 1998, the CHX submitted to the Commission No. 2 to the proposed rule change.[4]

On September 12, 1996, the proposed rule change, and Amendment No. 1 thereto, were published for comment in the **Federal Register**.[5] No comments were received on the proposal. This order approved the proposal, as amended.

II. Description of the Proposal

The practice of stopping stock refers to a guarantee by a specialist that an order received by the specialist will be executed at no worse a price than the price agreed upon when the order was received, with the understanding that the order may receive a better price.

CHX Art. XX, Rule 28 sets forth the obligations of a CHX specialist with regard to orders that he or she has stopped. The Exchange is proposing to amend this rule to clarify that it pertains to orders that are stopped, not stop orders.[6] Moreover, the Exchange is proposing to amend CHX Art. XX, Rules 28 and 37(a)(6) to place a limitation on the guarantee a specialist may provide to an order that is stopped. Specifically, the proposal provides such a guarantee shall in no event be greater than the greater of the size disseminated on either the primary market or the Exchange at the time the order was stopped. The Exchange maintains that this is consistent with the execution guarantee on orders that are subject to the BEST System that are not stopped, which are guaranteed an execution based on the lesser of the size displayed in the primary market or 2099 shares.[7]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).[8] In this regard, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public. Moreover, the Commission believes that the proposal is consistent with Section 11(b) of the Act[9] in that the amendments to the stopping stock procedures do not provide discretion to a specialist in the handling of an order.

The Exchange's stopping stock procedures, located in CHX Art. XX, Rules 28 and 37(a), are intended primarily to allow a specialist to prevent a customer order in a Dual Trading System issue subject to the BEST System[10] from being executed at the current primary market bid or offer if such an execution would be outside of the primary market range for the day (*i.e.*, establishing a new high or low price in the security for the day).[11] Under this stopping stock policy, the specialist is required to execute stopped stock based on the next primary market sale.[12]

The Exchange has proposed to revise the text of CHX Art. XX, Rule 28 to clarify that this rule relates to stopped stock and not stop orders. The Commission believes that such a revision is appropriate in that it will rectify any ambiguity that currently exists with regard to the subject matter covered by this rule.[13]

More significantly, the Exchange is proposing to amend CHX Art. XX, Rules 28 and 37(a) to limit a specialist's guarantee of an order that is stopped at a particular price to the greater of the size displayed in the primary market for the security or by the Exchange when the stopped order is entered. Currently, the Exchange's rules do not impose a size limitation on the guarantee provided by the specialist to orders that are stopped. Therefore, a specialist must execute the full size of a stopped order based on the next primary transaction, even if such transaction is for a lesser number of shares than the stopped order.[14]

In contrast, the CHX's execution guarantee on an order subject to the BEST System that is not stopped is limited to the lesser of the size displayed in the primary market or 2099 shares. Accordingly, the Exchange maintains that by establishing a size limitation on the guarantee provided to a stopped order, such guarantees will be more consistent with the execution guarantee provided to orders subject to the BEST System that are not stopped. Under the proposal, the portion of a stopped order that is not executed as a result of the next primary market transaction will be executed in accordance with the prices of subsequent transactions on the primary market.[15]

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[3] See Letter from David T. Rusoff, Attorney, Foley & Lardner, to Jon E. Kroeper, Attorney, SEC, dated August 27, 1996 ("Amendment No. 1").

[4] See Letter from David T. Rusoff, Attorney, Foley & Lardner, to Michael Walinskas, Senior Special Counsel, SEC, dated February 18, 1998 ("Amendment No. 2"). Amendment No. 2 narrows the scope of the proposal by withdrawing the portion of the proposal that would have defined a "stop" order.

[5] See Securities Exchange Act Release No. 37644 (September 5, 1996), 61 FR 48184.

[6] A stop order is an order designated as such by the customer that requires the specialist to buy (sell) a security once a specified price level has been reached.

[7] See CHX Article XX, Rule 37. The Exchange's Guaranteed Execution System (BEST System) specifies certain conditions under which CHX specialists are required to accept and guarantee executions of market and limit orders from 100 up to and including 2099 shares in Dual Trading System issues. Dual Trading System issues are securities that are assigned to CHX specialists and listed on either the New York Stock Exchange or the American Stock Exchange.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78k(b).

[10] See *supra* note 7.

[11] For example, assume the market in ABC stock is 20–20¼; 5000 shares bid and offered and that the execution of an incoming buy market order for 500 shares at 20¼ would be higher than the range in which the stock traded on the primary market during that trading day. A CHX specialist would stop such at 20¼ and change his or her quote to 20$^{1}/_{16}$–20¼ 500 bid and 5000 offered to reflect the stopped order. If the next sale on the primary market is for 500 shares at 20⅛, the Exchange's existing general policy regarding stopping stock would require the specialist to execute the stopped order at 20⅛. Alternatively, if the next primary market sale is at 20¼, the stopped order will be executed at 20¼. In minimum variation markets, the CHX rules permit a specialist to delay execution of stopped stock in minimum variation markets until a volume equal to the pre-existing volume ahead of the stopped order prints in the primary market. Specifically, the specialist is required to execute stopped orders in such markets after (1) a transaction takes place on the primary market at the bid (offer) or lower (higher) for a stopped sell (buy) order or (2) the displayed CHX share volume at the offer (bid) has been exhausted. See Interpretation and Policy .03 to CHX Rules, Art. XX, Rule 37; Securities Exchange Act Release No. 36401 (October 20, 1995), 60 FR 54893 (October 26, 1995) (File No. SR–CHX–95–10) (order permanently approving CHX pilot program for stopping stock in minimum variation markets) ("Pilot Program Permanent Approval Order").

[12] Id.

[13] *E.g.*, although Art. XX, Rule 28 pertains to stopped orders, the paragraph heading to this rule currently reads "Liability for 'Stop' Orders."

[14] For example, assume the primary market quote in ABC stock is the National Best Bid/Offer ("NBBO") at 20–20¼, 1000 shares bid and offered, the CHX quote is 19⅞–20¼, 200 shares bid and offered, and the high sale for the day in the primary market is 20⅛. A CHX specialist would stop an order to buy 1500 shares at 20¼ and change his or her bid to 20⅛ for 1500 shares to reflect the stopped order. If the next sale on the primary market is for 500 shares at 20¼, current CHX policy would require the specialist to execute all 1500 shares of the stopped order at 20¼.

[15] For example, assume the primary market quote in ABC stock is the NBBO at 20–20¼, 1000 shares bid and offered, the CHX quote is 19⅞–20¼, 200 shares bid and offered, and the high sale for the day in the primary market is 20⅛. A CHX specialist would stop a market order to buy 1500 shares at 20¼ and change his or her bid to 20$^{1}/_{16}$ for 1500 shares to reflect the stopped order. If the next sale on the primary market is for 1000 shares at 20¼ (regardless of whether the specialist is the buyer), the specialist would be obligated to execute 1000 shares of the stopped order at 20¼. If the primary market quote then changes to 20⅛–20⅜, 1000 shares bid and offered, and a transaction occurs on the primary market at 20⅜ for 500 shares, then the remaining 500 shares of the order will be executed at 20⅜.

The Commission recognizes the unintended consequences that can arise from the interplay between a regional exchange's price protection rules and its procedures for stopping stock. The Commission believes that the proposal is an acceptable means for the Exchange to accomplish the legitimate end of treating out-of-range and in-range orders in a more equivalent manner. The Commission also believes that the proposed rule change is appropriate in the context of current regional exchange market making practices. In this regard, the proposal will permit the Exchange to continue to reduce the likelihood of an out-of-range execution for orders entered on the CHX without obligating the specialist to execute more shares than may be available to the specialist on the primary market to offset its risk.[16] Moreover, the Commission finds it significant that under the proposal CHX specialists will continue to offer the opportunity for price improvement to orders that are stopped to avoid an out-of-range execution, regardless of their size. In addition, the Commission believes that the Exchange's proposal is appropriate in that providing generally equivalent guarantee size limitations to stopped and non-stopped orders will allow for a more uniform treatment of such orders by CHX specialists and systems, thereby having the potential to facilitate the ability of CHX specialists to carry out their market making functions.

Further, The Commission believes that this provision is consistent with the prohibition in Section 11(b) of the Act[17] against providing discretion to a specialist in the handling of an order. Section 11(b) was designed, in part, to address potential conflicts of interest that may arise as a result of the specialist's dual role as agent and principal in executing stock transactions. In particular, Congress intended to prevent specialists from unduly influencing market trends through their knowledge of market interest from the specialist's book and their handling of discretionary agency orders.[18] The Commission has stated that, pursuant to Section 11(b), all orders other than market or limit orders are discretionary and therefore cannot be accepted by specialists.[19]

In this regard, the Commission has stated previously that it is appropriate to treat a stopped order as equivalent to a limit order.[20] In reaching this conclusion, the Commission did not expressly consider the status of a stopped order under exchange rules that limit the guarantee of a stopped order by its size. Under such rules, a stopped order of a size exceeding the guarantee shares features of both a limit and market order. As with the typical stopped order, the guaranteed portion is executable at the guaranteed price or better, and is therefore akin to a limit order. The portion of the order that exceeds the size guarantee is subject to execution pursuant to the same requirements applied to market orders entered with CHX specialists.[21] The Commission, therefore, believes that the requirements imposed on the specialist with regard to such orders provide sufficiently stringent guidelines to ensure that the specialist will implement the proposed rule change in a manner consistent with his market making duties and Section 11(b).

In conclusion, however, the Commission notes that the Exchange's adoption of a guarantee size limitation for stopped orders does not, in any way, modify a CHX specialist's best execution obligation to any stopped order that exceeds the size guarantee limitation.[22]

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing of this amendment in the **Federal Register.** Amendment No. 2 narrows the scope of the proposal by withdrawing the portion of the proposal that would have defined a "stop" order. The Exchange represents that it is reconsidering how to better codify the Exchange's rules relating to "stop" orders.[23] Granting accelerated approval to Amendment No. 2 will allow the Exchange to codify its procedures with respect to "stopped" orders immediately. The Commission notes that the original proposal was published for the full 21-day comment period and no comments were received by the Commission. Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)[24] of the Act, to approve Amendment No. 2 to the Exchange's proposal on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 2, including whether Amendment No. 2 to the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CHX–96–21 and should be submitted by August 13, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[25] that the proposed rule change (SR–CHX–96–21), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[26]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19566 Filed 7–22–98; 8:45 am]

BILLING CODE 8010–01–M

[16] See *supra* note 15.

[17] 15 U.S.C. 78k(b).

[18] See H. Rep. No. 1383, 73d Cong. 2d Sess. 22. S. Rep. 792. 73d Cong. 2d Sess. 18 (1934).

[19] See SEC, Report of the Special Study of Securities Markets of the Securities and Exchange Commission, H.R. Doc. No. 95, 88th Cong., 1st Sess., Pt. 2 (1963).

[20] See Pilot Program Permanent Approval Order, *supra* note 11. A limit order is an order to buy or sell a stated amount of a security at a specified price, or better if obtainable.

[21] However, if the guaranteed portion is executed at a stop price that is the new high (low) for the day, and the primary market quote subsequently moves to the next higher (lower) trading increment, pursuant to CHX rules the unexpected portion will itself be stopped at that increment. In such instances this portion would itself appropriately be deemed equivalent to a limit order.

[22] Moreover, the Commission's recently-released study on "preferencing" on national securities exchanges stated that the practice of stopping stock should be reconsidered in the context of minimum variation markets. See SEC, Report on the Practice of Preferencing Pursuant to Section 510(c) of the National Securities Markets Improvement Act of 1996 ("Preferencing Study") (1997). The Commission notes that nothing in this approval order should be interpreted as affecting the conclusions reached by the Commission in the Preferencing Study.

[23] Telephone conversation between David T. Rusoff, Attorney, Foley & Lardner and David Sieradzki, Attorney, Commission on July 15, 1998.

[24] 15 U.S.C. 78f(b)(5) and 15 U.S.C. 78s(b).

[25] 15 U.S.C. 78s(b)(2).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40206; File Nos. SR–MCC–98–01 and SR–MSTC–98–01]

Self-Regulatory Organizations; The Midwest Clearing Corporation; the Midwest Securities Trust Company; Order Approving Proposed Rule Changes Relating to the Structure and Composition of the Board of Directors

July 15, 1998.

On February 9, 1998, the Midwest Clearing Corporation ("MCC") and the Midwest Securities Trust Company (MSTC) filed proposed rule changes with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and on February 25, 1998, amended the proposed rule changes. Notice of the proposals was published in the **Federal Register** on April 22, 1998.[2] For the reasons discussed below, the Commission is approving the proposed rule changes.

I. Description

The proposed rule changes amend MCC's and MSTC's by-laws in order to reflect the cessation of their securities clearing and depository services[3] and to streamline the structure and composition of their board of directors in order to remain consistent with the changes recently made by the Chicago Stock Exchange, Incorporated ("CHX").[4]

The proposed rule changes reduce the number of directors from 27 to 24 and realign the classes for both MCC and MSTC. The directors are still divided into three classes, but the size and composition will be adjusted as follows. At the 1998 annual election, class I will be reduced by two directors. At the 1999 annual election, class II will be reduced by four directors. At the 2000 annual election, class III will be reduced by one director, and class II will be increased by one director. The board of directors will also be increased by three additional "non-industry" directors by the 1999 annual election to serve for staggered terms so as to balance the classes as determined by the nominating committee.[5]

II. Discussion

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to protect investors and the public interest. The Commission believes that the change in the composition of MCC's and MSTC's board of directors should help MCC and MSTC to better protect investors and the public interest. As a result of the modifications to the boards, there will be fifty percent representation of non-industry directors on MCC's and MSTC's board of directors. If carefully selected, non-industry directors should bring diverse experience to the boards and thus enable MCC and MSTC to better perform their self-regulatory obligations.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–MCC–98–01 and SR–MSTC–98–01) be and hereby are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19571 Filed 7–22–98; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 39872 (April 14, 1998), 63 FR 19991 (File Nos. SR–MCC–98–01 and SR–MSTC–98–01).

[3] Securities Exchange Act Release No. 36684 (January 5, 1995), 61 FR 1195 [File Nos. SR–MCC–95–04, SR–MSTC–95–10] (order approving proposed rule changes relating to the withdrawal of the Chicago Stock Exchange, Incorporated from the clearance and settlement and securities depository businesses, conducted principally through its subsidiaries, MCC and MSTC).

[4] Securities Exchange Act Release No. 39759 (March 6, 1998), 63 FR 14153 (order approving a proposed rule change relating to the structure and composition of CHX's board of governors). Historically, the MCC's and MSTC's board of directors have been the same as the CHX's board of governors. As a result of these changes, half of MCC and MSTC's boards will be "non-industry" directors as defined in CHX's constitution.

[5] Class I will consist of seven directors, class II will consist of seven directors, and class III will consist of eight directors.

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40214; File No. SR–NASD–97–35]

Self-Regulatory Organizations; Order Granting Approval of Proposed Rule Change Filed by the National Association of Securities Dealers, Inc. Relating to the Regulation of Non-Cash Compensation in Connection With the Sale of Investment Company Securities and Variable Contracts

July 15, 1998.

I. Introduction and Background

On May 7, 1997,[1] the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[2] and Rule 19b–4 thereunder[3] to amend NASD Conduct Rules relating to the regulation of non-cash compensation in connection with the sale of investment company securities and variable contracts.

Over the past years, the SEC, the investing public and the securities industry have raised concerns about actual and potential conflicts of interest in the retail brokerage business. Responding to these concerns, in May

[1] On July 15, 1997, the NASD filed Amendment No. 1 to the proposed rule change. On July 23, 1997, the NASD filed Amendment No. 2 to the proposed rule change. On August 28, 1997, the NASD filed Amendment No. 3 to the proposed rule change. A final amendment, Amendment No. 4, was filed on December 2, 1997. Amendment No. 1 made several changes to the proposed rule language and the rule filing. *See* letter from John Ramsay, Deputy General Counsel, NASD Regulation, Inc. ("NASD Regulation") to Katherine A. England, Assistant Director, Commission, dated July 11, 1997. The changes made by Amendment No. 1 were incorporated into and published in the **Federal Register** notice of the proposed rule change. *See* Securities Exchange Act Release No. 38993 (August 29, 1997), 62 FR 47080 (September 5, 1997). Amendment No. 2 made technical changes to Amendment No. 1. *See* letter from John Ramsay, NASD Regulation to Katherine A. England, Assistant Director, Commission, dated July 22, 1997. Amendment No. 3 states that the NASD Board of Governors has reviewed the proposed rule change and that no other action by the NASD is necessary for Commission consideration of the rule proposal. *See* letter from John Ramsay, NASD Regulation to Katherine A. England, Commission, dated August 27, 1997. These two technical amendments do not need to be published for comment. Amendment No. 4 was filed on December 2, 1997. *See* letter from John Ramsay, NASD Regulation to Katherine A. England, Assistant Director, Commission Amendment No. 4 responds to comment letters received by the Commission in response to its notice of the filing and solicitation of comment. It is a technical amendment and therefore not subject to notice and comment. NASD Regulation's response is discussed in detail in Section III of this approval order.

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

1994, an industry committee chaired by Merrill Lynch Chairman Daniel P. Tully ("Tully Committee") was formed at the request of SEC Chairman Levitt to address concerns regarding conflicts of interest in the brokerage industry. The Tully Committee reviewed industry compensation in connection with the sale of all forms of securities for associated persons of members, identified conflicts of interest inherent in such practices, and identified "best practices" used in the industry to eliminate or reduce such conflicts of interest. A report was subsequently issued by the Tully Committee in April 1995 (the "Tully Report").[4] NASD Regulation, a wholly owned subsidiary of the NASD, believes this proposed rule change is consistent with the characteristics of "best practices" identified in the Tully Report to the extent that the proposal helps to better align the interests of associated persons, broker-dealers and investors with respect to investment company securities and variable contracts.

The proposal is the latest in a series of NASD proposals designed to control the use of non-cash compensation in connection with a public offering of securities. Previous rule changes established restrictions on non-cash compensation in connection with transactions in direct participation program securities, real estate investment trusts, and corporate debt and equity offerings.[5] in December 1995, the NASD filed with the Commission proposed rule change SR–NASD–95–61, which proposed substantive prohibitions regarding non-cash compensation and incentive-based cash compensation, in connection with investment company and variable contract sales. SR–NASD–95–61 was published by the Commission for comment on July 8, 1996,[6] SR–NASD–95–61 raised significant issues among comments regarding the nature and treatment of certain incentive-based cash compensation arrangements, in particular those cash compensation arrangements of insurance-affiliated member firms. Most of the commenters opposed the proposed provisions to regulate incentive-based cash compensation, stating among other things, that the provisions pertaining to cash compensation were over-broad in their scope. In response to the commenters, NASD Regulation chose to delete those provisions proposing to impose substantive prohibitions regarding incentive-based cash compensation. The NASD therefore withdrew SR–NASD–95–61 and replaced it with the filing approved herein, SR–NASD–95–35, which does not contain provisions imposing substantive regulations on the receipt of cash compensation arrangements.[7]

II. Summary Description of the Proposed Rule Change

In general, the terms of the rule change would prohibit, except under certain circumstances, associated persons from receiving any compensation, cash or non-cash, from anyone other than the member with which the person is associated. Limited exceptions to this general prohibition allow an associated person to receive payment from persons other than his or her NASD member firm where the compensation is approved by the member, or compensation received by the associated person is treated as compensation received by the member for purposes of NASD rules.

New record keeping provisions of the proposed rule change would require that members maintain records of any compensation, cash or non-cash, received by the member or its associated person from offerors. NASD Investment Company Rule 2830, as amended, would prohibit receipt by a member of cash compensation from the offeror unless such arrangement is described in the current prospectus. NASD Investment Company Rule 2830 prohibitions against a member receiving compensation in the form of securities would be retained. The amendments would prohibit, moreover, with certain exceptions, members and persons associated with members from directly or indirectly accepting or paying any non-cash compensation in connection with the sale of investment company and variable contract securities.

The exceptions from the non-cash compensation prohibitions would permit: (1) gifts of up to $100 per associated person annually; (2) an occasional meal, ticket to a sporting event or theater, or comparable entertainment; (3) payment of reimbursement for training and educational meetings held by a broker-dealer or mutual fund or insurance company for the purpose of educating associated persons of broker-dealers, as long as certain conditions are met; (4) in-house sales incentive programs of broker-dealers for their own associated persons; (5) sales incentive programs of mutual fund and insurance companies for the associated persons of an affiliated broker-dealer; and (6) contributions by any non-member company or other member to a broker-dealer's permissible in-house sales incentive program.

The proposed rule amendments would define the terms "affiliated member," "compensation," "cash compensation," "non-cash compensation," and "offeror." NASD Regulation is proposing to adopt a definition of the term "affiliated member" for both the Investment Company Rule, Rule 2830, and the Variable Contract Rule, Rule 2820, to include a member that, directly or indirectly, controls, is controlled by, or is under common control with a non-member company. The term is used in the sections of the proposed rule change which address incentive compensation arrangements in order to identify a common type of relationship existing in the investment company and variable contracts industries, whereby a non-member owns or controls one or more subsidiary broker-dealer member firms for underwriting and/or wholesale and retail distribution services.

For ease of reference in appropriate paragraphs of the proposed rules, NASD Regulation is also proposing to include in the Variable Contracts Rule and the Investment Company Rule a new definition of "compensation" to mean "cash compensation and non-cash compensation," and to amend the

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[4] *See* Report of the Tully Committee on Compensation Practices, April 10, 1995.

[5] *See e.g.*, order approving proposed rule change relating to the offering on non-cash sales incentives as inducement to sell interests in direct participation programs. Securities Exchange Act Release No. 26185 (October 14, 1988). 53 FR 41262 (October 20, 1998). *See* also order approving proposed rule change to prohibit NASD members and associated persons from accepting non-cash compensation in connection with the sale of real estate investment trust, and debt or equity corporate offerings. Securities Exchange Act Release No. 26186 (October 14, 1988), 53 FR 41265 (October 20, 1988).

[6] *See* Securities Exchange Act Release No. 37374 (June 26, 1996), 61 FR 35822 (July 8, 1996).

[7] *See* Securities Exchange Act Release No. 37374 (June 26, 1996), 61 FR 35822 (July 8, 1996). Notwithstanding its decision to bifurcate the regulation of cash and non-cash compensation in the instant filing, NASD Regulation has informed the Commission that it is aware of a broad range of cash compensation practices by which investment company and variable contract issuers or their affiliates provide various incentives and rewards to individual broker-dealers and their registered representatives for selling the issuers' products. NASD Regulation staff continues to believe that various cash incentive compensation practices, which create an incentive to favor one product over another, also may compromise the ability of securities salespersons to render advice and services that are in the best interest of customers.

As a result of its continuing concerns regarding the appropriate regulatory response to cash compensation arrangements, in August 1997, NASD Regulation issued Notice to Members 97–50, which solicited comments pertaining to conflicts of interest arising from the payment of cash incentives. Among other things, Notice to Members 97–50 solicited comment as to whether cash compensation should be subject to disclosure versus substantive prohibitions.

appropriate paragraphs in the proposed rule language accordingly.

"Cash compensation," as proposed to be defined in the Investment Company and Variable Contract Rules, would include any discount, concession, fee, service fee, commission, asset-based sales charge, loan, override or cash employee benefit received in connection with the sale and distribution of investment company securities or variable contracts. This term would encompass compensation arrangements currently covered under the Investment Company Rule in subparagraph (l)(1), to Conduct Rule 2830, as well as asset-based sales charges and service fees as currently defined in subparagraphs (b)(8) and (9) of the Investment Company Rule. As a result, the proposed new term would apply to all compensation arrangements that would be covered under the current provisions of the Investment Company Rule, with the addition of asset-based sales charges and service fees. The proposed new term also includes cash employee benefits to make clear that certain payments of ordinary employee benefits as part of an overall compensation package are not included in the definition of non-cash compensation.

The "non-cash compensation" definition is proposed to be identical in applicability to both the Investment Company and Variable Contract Rules and would encompass any form of compensation received by a member in connection with the sale and distribution of investment company and variable contract securities that is not cash compensation, including, but not limited to, merchandise, gifts and prizes, travel expenses, meals and lodging. Thus, the definition of "non-cash compensation" encompasses reimbursement for costs incurred by a member or person associated with a member in connection with travel, meals and lodging.

Finally, NASD Regulation is proposing to define the term "offeror" in the Investment Company Rule to include an investment company, an adviser to an investment company, a fund administrator, an underwriter and any affiliated person of such entities. The term "offeror," as defined in the Variable Contracts Rule, would include an insurance company, a separate account of an insurance company, an investment company that funds a separate account, any advisor to a separate account of an insurance company or an investment company that funds a separate account, a fund administrator, an underwriter and any affiliated person of such entities. With the exception of "fund administrator," the enumerated entities included in the proposed definition of "offeror" in the Investment Company Rule are currently included in the definition of "associated person of an underwriter," which is proposed to be deleted. The definition of the term "associated person of an underwriter" in the Investment Company Rule, which is proposed to be deleted, encompasses the issuer, the underwriter, the investment advisor to the issuer, and any affiliated person of such entities. The term "affiliated person" in the proposed definition of "offeror" is defined in accordance with Section 2(a)(3) of the 1940 Act.[8] The term "underwriter" is defined in Section 2(a)(40) of the 1940 Act.[9] It is intended to reference the principal underwriter through which the investment and insurance company distributes securities to participating dealers for sale to the investor.

III. Amendment No. 4 and NASD Regulation's Response to Comments Received on the Proposal

The Commission received letters from eight commenters regarding the proposed rule change.[10] Two of the commenters generally supported the proposal with modifications. Four of the commenters opposed the proposal, and two of the commenters requested clarification regarding certain aspects of the proposal, but did not assert an opinion as to their general support of opposition to the proposal. NASD Regulation responded to the issues raised by the commenters in a letter dated December 2, 1998.[11] This response letter is discussed below in addition to a description of the amendments to the proposal that were made as a result of comments received from the Commission's notice of the proposal and solicitation of public comment.

A. The Bifurcation of the Regulation of Non-Cash and Cash Compensation

M Financial, Banc One, Merrill Lynch, and the SIA expressed the opinion that it would be imprudent and potentially confusing to introduce substantive regulations regarding non-cash compensation prior to fully evaluating the answers to the questions regarding cash compensation raised by NASD Regulation in Notice to Members 97–50. In responding to these commenters, NASD Regulation notes that since the late 1980s, the NASD, with the support of its Investment Company and Insurance Affiliated Committees, has focused on crafting a rule to address non-cash compensation practices that create particularly strong point-of-sale incentives and supervisory problems for member firms. NASD Regulation believes the proposed rule change, which has the general support of the industry, is appropriate to address these issues and need not be linked to cash compensation issues, which raise much broader and more complicated concerns.

The ICI urged NASD Regulation to reinstate the cash incentive provision in the earlier proposal SR–NASD–95–61 to prevent cash payments directly to individuals, because such payments create the potential to undermine an NASD member's supervisory control over its associated persons. In response, NASD Regulation explains that the intended purpose of the now deleted cash incentive provision was to prevent the monetizing of non-cash compensation. NASD Regulation determined to delete the cash incentive provision in response to comments, primarily from insurance affiliated members, that the provision was over-broad, and to solicit comments in Notice to Members 97–50 on cash compensation issues. The potential of payments to individuals to undermine an NASD member's supervisory control over its associated person has always been a major concern that the proposed rule change has attempted to address. Thus, paragraph (h)(1) and (l)(1) of the proposed rule change, which were also contained in predecessor versions, with limited exceptions prohibit individual associated persons from accepting any compensation, cash or non-cash, from anyone other than the member with which the person is associated.

The ICI noted that in connection with the discussion of the implementation period of the proposed rule change, NASD Regulation states that the requirement that "[w]ith respect to the non-cash and cash sales incentive provisions, no new sales incentive programs may be commenced after the effective date" is incongruent with the removal of the cash sales incentive provision and needs to be clarified. NASD Regulation agrees with this

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[8] 15 U.S.C. 80a-2(a)(3).

[9] 15 U.S.C. 80a-2(a)(40).

[10] *See* letters to Jonathan Katz, Secretary, SEC from Banc One Corporation ("Banc One"), dated September 29, 1997; Investment Company Institute ("ICI"), dated September 26, 1997; M Financial Group ("M Financial"), dated September 30, 1997; Drinker Biddle & Reath ("Drinker Biddle"), dated, September 29, 1997; Merrill Lynch Pierce, Fenner & Smith Incorporated ("Merrill Lynch"), dated October 1, 1997; Bruce Avedon, dated October 16, 1997; First Investors Corporation ("First Investors"), dated October 16, 1997; and the Securities Industry Association ("SIA"), dated October 16, 1997.

[11] *See* Letter from John Ramsay, Deputy General Counsel, NASD Regulation Inc., to Katherine England, Assistant Director, Division of Market Regulation, SEC, dated December 2, 1998.

observation and has thus made a technical amendment to the proposed rule change to delete the words "and cash" from the above cited statement.

B. Effective Date of Proposal

M Financial maintained that the proposed implementation plan interferes with the completion on ongoing commitments, and NASD Regulation should extend the "grace period" for completing on-going incentive programs. The proposal, M Financial argues, does not allow adequate time for insurers and broker-dealers to honor their commitments for programs that have already begun. Having taken this argument under advisement, NASD Regulation believes the proposed "grace period" is fair and will not unduly burden the completion of ongoing commitments, particularly since industry participants have been aware for some time of the proposed rule and the proposed grace period and, in many cases, have already begun to adjust accordingly.

C. In-house Compensation Plans

Merrill Lynch and the ICI urged that the proposed rule change be revised to permit in-house incentive programs where the compensation is based on sales of investment company securities within a designated broad investment objective or category, rather than all investment company securities sold by the member. NASD Regulation is of the opinion that it would be inappropriate to permit in-house incentive programs based on broad objectives or categories. Some members, NASD Regulation notes, may carry limited numbers of funds, or only one fund, for a given objective or category which, under the commenters' suggestion could result in sales incentive contests tied to one or a few funds, which would vitiate the purpose of the proposed rule.

D. Contributions of NASD Members to Non-NASD Member Compensation Arrangements

Drinker Biddle and the ICI maintained that, although the proposed rule change would permit a non-NASD member or other NASD member to contribute to a member's permissible in-house non-cash compensation arrangement, as currently drafted, it could be read to prohibit contributions by NASD members to non-cash compensation arrangements of non-NASD members, for example, banks. The commenters stated, moreover, that this is probably an unintended consequence of a revision to the prior proposal that not only prohibits an NASD member or person associated with a member from accepting any non-cash compensation (subject to certain specified exceptions), but also prohibits members and associated persons from making payments or offers of payment of such compensation. Thus, the commenters recommended that the NASD clarify that an NASD member also could contribute to the non-cash compensation arrangements of a non-NASD member, such as a bank, provided that the arrangement complies with the requirements of the proposed rule change.

NASD Regulation agrees that members should not be prohibited from contributing to non-cash compensation arrangements of a non-member, provided that the arrangement complies with the conditions of the proposed rule. Thus, paragraph (h)(4)(E) of Rule 2820 is amended as follows: New language has been underlined.

"Contributions by a non-member company or other member to a non-cash compensation arrangement between a member and its associated persons, *or contributions by a member to a non-cash compensation arrangement of a non-member,* provided that the arrangement meets the criteria in subparagraph (h)(4)(D)."

In addition, paragraph (1)(5)(E) of the proposed Rule 2830 is amended as follows:

"Contributions by a non-member company or other member to a non-cash compensation arrangement between a member and its associated persons, *or contributions by a member to a non-cash compensation arrangement of a non-member,* provided that the arrangement meets the criteria in subparagraph (1)(5)(D)."

E. Proposed Prospectus Disclosure

Three commenters objected to the prospectus disclosure requirements regarding certain compensation arrangements. Specifically, Banc One stated that the proposal to require additional detailed disclosure in a current prospectus regarding special cash compensation arrangements, including the names of individual members engaged in such arrangements, is unnecessary. Merrill Lynch and the SIA noted that the current rule provides that "[n]o underwriter or associated person of an underwriter shall * * * pay * * * any * * * concession * * *" which is not disclosed in the prospectus, whereas the proposed rule would be revised to state "[n]o member shall accept any cash compensation from an offeror unless such compensation is described in a current prospectus." These commenters expressed the opinion that the proposed rule would inappropriately shift the burden of ensuring that such disclosure appears in the prospectus from underwriters to NASD member dealers, who are unable to write or control the disclosure contained in an investment company's prospectus. The SIA maintained, moreover, that the disclosure requirement would be inconsistent with the SEC's proposal on prospectus disclosure and confusing for members, if the NASD mandated additional disclosure at a time when the SEC is trying to streamline prospectus disclosure.

In responding to the comments objecting to the proposed prospectus disclosure, NASD Regulation notes that the prospectus disclosure requirement in the proposed rule change is similar to the current prospectus disclosure requirement, but the proposed rule change applies only to cash compensation. Rule 2830 currently requires disclosure of all compensation, including non-cash compensation, paid or offered to be paid by an underwriter or its associated person in connection with the sale of investment company securities. By contrast, the proposed rule change governs the conduct of NASD members who accept payments in connection with investment company securities. Specifically, the proposed rule change prohibits NASD members from accepting any cash compensation from an offeror that is not described in the current prospectus of the investment company.

As to the concern that the proposed rule change inappropriately shifts the burden for disclosure from offerors of funds to NASD member dealers, NASD Regulation points out that the proposed rule changes does not impose a specific prospectus disclosure requirement on the dealer-member; rather, the rule prohibits the "acceptance" by a member of cash and special cash compensation unless disclosed in the prospectus. Finally, NASD Regulation has stated in the proposed rule change that it will reevaluate prospectus disclosure in light of the SEC's recent initiatives for a simplified prospectus.

F. Proposed Definitions

The SIA suggested modifications to several of the proposal's definitions. Specifically, it maintained the "affiliated member" definition is too narrow and should be modified to include arrangements where member firms and fund groups are affiliated through ownership, but are not under common control. NASD Regulation believes expanding the definition of affiliated member would expand the universe of non-members that could

sponsor a non-cash arrangement under sub-paragraphs (h)4)(D) of rule 2820 and (1)(5)(D) of Rule 2830 to non-members that have only a business or investment interest, rather than a control interest, in a member. Subparagraphs (h)(4)(D) and (1)(5)(D), as explained in Amendment No. 4, were intended in part to give member firms and their parent insurance company or mutual fund control over the sponsorship and organization of a non-cash arrangement, and to limit that control to such relationships.

The SIA also suggested modifications to the definition of service fee. It stated that service fees are payments for continuing investor services and, as such, should be excluded from the definition of "cash compensation." NASD Regulation, in response, asserts that it understands that "service fees" may serve myriad purposes and has intentionally drafted a broad definition of "cash compensation" to address the various forms and ways in which such compensation may be paid.

Noting that the definition of "offeror" would pick up any party that has a five percent ownership arrangement with an investment company, including an investor owning more than five percent of a fund, the SIA stated that the definition is overly broad and the term should be more narrowly defined. As explained by NASD Regulation, the definition of offeror was broadly drafted to address those entities that may function as offerors of cash or non-cash compensation in connection with the sale and distribution of investment company and variable contract securities. NASD Regulation believes that it is very unlikely that an investor could or would act in such capacity.

Finally, one commenter, Bruce Avedon, requested that NASD Regulation expressly clarify its position that the definition of "cash compensation," as amended in Rule 2820, does not include fees and reimbursement for reasonable travel expenses paid to directors of life insurance companies for attending board of directors' meetings. In response to this request for clarification, NASD Regulation notes that directors' fees are not paid pursuant to the sale and distribution of securities, and it therefore considers such fees to be outside the purview of the new rule.

G. Training and Education Exceptions

The SIA requested specific clarification that an issuer that is an affiliate of a member firm could provide compensation for training and education programs under the provisions of (l)(5)(C) of Rule 2830, as well as under the provisions of (l)(5)(D). Proposed paragraph (l)(5)(C), as interpreted by NASD Regulation, would permit an issuer that is an affiliate of a member firm to provide payment or reimbursement for a training and education meeting held by the member, as long as the five conditions under (l)(5)(C) are satisfied. Proposed paragraph (l)(5)(D), as interpreted by NASD Regulation, does not address training and education meetings.

Finally, the SIA requested clarification that condition (v) of provision (l)(5)(C), which specifies that payment or reimbursement by an offeror for a permissible training and education program cannot be preconditioned by the offeror on the achievement of a sales target, does not preclude payment by an offeror to a training or education program aimed at the member's top producers during a given time period, or payment by a fund to a training or education program aimed at the member's top producers.

As explained in Amendment No. 4 to the proposal, condition (ii) of subparagraph (h)(4)(C) of Rule 2820 and (l)(5)(C) of Rule 2830 states that attendance by the member's associated persons at a training and education meeting must, among other things, not be preconditioned on the achievement of a sales target. In connection with this condition, NASD Regulation stated in the proposed rule and reiterated in response to comment letters, that the condition is not, however, intended to prevent a member from designating persons to attend a meeting to recognize past performance or encourage future performance, so long as attendance at the meeting is not earned through a member's in-house sales incentive program, through the sales incentive program of a member's non-member affiliate, or through the achievement of a sales target.

Consistent with this reasoning, as explained by NASD Regulation, condition (v) of Paragraph (l)(5)(C) would not prevent payment of reimbursement by an offeror for a training or education program aimed at the member's top producers during a given time period, or payment by a fund to a training or education program aimed at the member's top producers, so long as payment is not earned through a member's in-house sales incentive program, through the sales incentive program of a member's non-member affiliate, or preconditioned on achieving a sales target.

IV. Conclusion

After carefully considering all comments received and the NASD's response to comments, the Commission has determined that the proposed rule change should be approved. The Commission believes that the amendment is responsive to commenters' concerns. Indeed, in its consideration of the views and opinions expressed by commenters and the NASD's response, the Commission is of the opinion that the NASD proposal, as amended, complies with the requirements of the statute. Although further steps could be taken, and the NASD is considering future action regarding cash compensation arrangements, the Commission believes that the measured steps taken in the proposal are consistent with the Act.

While some commenters urged that NASD Regulation defer action on the proposal until it addresses the issue of cash compensation, the NASD has taken considerable steps over the past decade to address concerns raised by non-cash compensation arrangements, and, accordingly, the Commission believes it is appropriate for the NASD to address non-cash compensation arrangements at this time, while continuing to consider the most appropriate regulatory approach to cash compensation arrangements made in connection with mutual fund and variable contract sales.

The Commission expects that future proposals by NASD Regulation to address the issue of cash compensation will be consistent with the prospectus disclosure principles that the Commission set forth in amended Form N–1A. These principles include a focus on information central to investment decisions and avoidance of detailed highly technical disclosure that discourages investors from reading the prospectus or obscures essential information about an investment in a fund.[12] In the release adopting amendments to Form N–1A, the commission noted its believe that if its fund disclosure initiative are to have their intended effect, all parties involved in the disclosure process—funds, their legal counsels and other advisors, the Commission and its staff, and other regulators and their staff—should act consistently with the basic disclosure principles that serve as the cornerstone of the initiative.

The Commission believes the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[13] which require in pertinent part that the Association adopt and amend its rules to promote just and

[12] *See* Investment Company Act Release No. 23064 (March 13, 1998), 63 FR 13916 (March 23, 1998).

[13] 15 U.S.C. 78*o*–3.

equitable principles of trade, prevent fraudulent and manipulative acts and practices, and generally provide for the protection of investors and the public interest. Specifically, the proposed rule change is designed to reduce point-of-sale impact of non-cash sales incentives that may compromise the duty of registered representatives to match the investment needs of customers with the most appropriate investment product. The Commission believes the proposal appropriately recognizes that the interest of those giving investment advice and those seeking investment advice can diverge where non-cash compensation exists as an incentive to sell specific investment products.

Accordingly, the proposed rule change is designed to limit compensation arrangements that may threaten the mutuality and harmony of interest between firms, their representatives, and the investing public. To that end, the proposal addresses direct and perceived conflicts of interest stemming from non-cash compensation arrangements, such as contests offering lavish trips and expensive prizes and gifts for the sale of investment company and variable contract securities. Investor confidence in the operation of the securities markets is in turn bolstered as a consequence of the removal of such conflicts of interest.

The proposal facilitates, moreover, the ability of NASD members to execute compliance and supervisory responsibilities by restricting the potential for third-party non-cash incentives to undermine the supervisory control of an NASD member with respect to its associated persons. An NASD member is thus assisted in its efforts to create unbiased compensation plans that are arranged with the approval of, and administered and recorded by, the member firm. The Commission believes greater supervisory and compliance control of compensation structures of associated persons will enhance the ability of NASD members to implement policies and procedures to ensure that registered representative compensation structures align the interests of the firm, the registered representative, and the investor.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that File No. SR–NASD–97–35 be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

[14] 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,
Secretary.

[FR Doc. 98–19567 Filed 7–22–98; 8:45 am]
BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40213; File No. SR–NASD–98–36]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Amendment 1 Thereto Relating to At-Large Industry Members of the National Adjudicatory Council

July 15, 1998.

I. Introduction

On May 12, 1998, the National Association of Securities Dealers, Inc., ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder[2] to amend the By-Laws of NASD Regulation, Inc. ("NASD Regulation") to permit one or more Industry members of the National Adjudicatory Council ("NAC")[3] to serve as at-large Industry members of the NAC. By letter dated May 19, 1998, the Association filed Amendment 1 to the proposed rule change.[4] The proposed rule change and Amendment 1 were published for comment in the **Federal Register** on June 11, 1998.[5] No comments were received. This order approves the proposal.

II. Description of the Proposal

Currently, the NASD Regulation By-Laws authorize the NASD Regulation Board to appoint a NAC of 12 to 14 members, and require that the number of Non-Industry members equal or exceed the number of Industry members.[6] Thus, the NAC generally will consist of six or seven Industry members, depending on the size of the Board. The By-Laws also require that beginning in 1999 and thereafter, all Industry members represent a geographic region.[7] Industry members must be nominated by a Regional Nominating Committee and may be challenged for the nomination.[8] The Regional Nominating Committees then nominate their candidates to the National Nominating Committee, which makes the final determination as to the nominees who are presented to the NASD Regulation Board for appointment to the NAC.[9]

The proposed rule change would permit the Board to designate up to two NAC Industry members who would not be subject to the regional nominating process; instead, these members would be designated as at-large Industry members of the NAC. The number of at-large Industry members could vary from year-to-year depending on the total number of Industry seats on the NAC and the number of regions selected by the Board. For example, if the Board determined that there should be a 12- or 13-member NAC (which would include six Industry seats) and five regions, then the Board could designate one at-large Industry member. If the Board determined that there should be a 14-member NAC (which would include seven Industry seats) and five regions, then there could be two at-large Industry members. If the number of Industry seats and the number of regions were equal, then there would be no at-large Industry seats that year. Thus, given the limitation on the size of the NAC and the number of Industry seats, the proposed rule change would allow zero, one, or two at-large Industry members in any given year.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 15A(b)(6) of the Act,[10] which provides, among other things, that the rules of a national securities association be designed to prevent fradulent and manipulative acts and practices, to promote just and equitable principles of trade, and in

[1] 15 U.S.C. 78s(b)(1) (1994).

[2] 17 CFR 240.19b–4 (1997).

[3] The functions of the NAC include hearing appeals and conducting reviews of disciplinary proceedings, statutory disqualification proceedings, and membership proceedings; reviewing offers of settlement; reviewing exemptions granted or denied by staff; and making recommendations to the Board on policy and rule changes relating to securities business and sales practices and enforcement policies, including policies with respect to fines and other sanctions. *See* Article V, Section 5.1 of the NASD Regulation By-Laws.

[4] *See* Letter from T. Grant Callery, General Counsel, NASD, to Katherine England, Assistant Director, SEC, dated May 19, 1998. Several additional non-substantive textual changes were also provided by telephone call on June 2, 1998. Telephone call between Alden Adkins, General Counsel, NASD Regulation, and Mandy Cohen, Attorney, SEC.

[5] Securities Exchange Act Release No. 40062 (June 3, 1998), 63 FR 32033.

[6] Article V, Section 5.2 of the NASD Regulation By-Laws.

[7] *Id.*

[8] Article VI of the NASD Regulation By-Laws.

[9] Article VII, Section 9 of the NASD By-Laws; Article VI, Section 6.25 of the NASD Regulation By-Laws.

[10] 15 U.S.C. 78(b)(6).

general, to protect investors and the public interest.[11] The Commission believes that the proposed rule change will provide NASD Regulation with greater flexibility in the nomination and appointment of Industry members to the NAC, which serves an important role in reviewing disciplinary, membership, and other matters for NASD Regulation. At the same time, NASD member involvement in nominating Industry members for the NAC will be preserved by requiring most Industry members of the NAC to represent regions.

The Commission notes that the proposed rule change is consistent with the corporate reorganization approved by the Commission in SR–NASD–97–71[12] in that the number of regions that may be established by the Board is not specified in the NASD Regulation By-Laws so that the Board may retain flexibility in determining the appropriate number of regions. The proposed rule change also is consistent with the regional plan approved by the Board at its meeting on May 6, 1998, which proposes a 12-member NAC and five regions for 1999. The proposed rule change thus will permit five Industry members of the NAC to be nominated by the regions for consideration by the National Nominating Committee and one at-large Industry member of the NAC who would not be subject to the regional nominating requirements in Article VI of the NASD Regulation By-Laws. All six Industry members, along with six Non-Industry members, would be nominated by the National Nominating Committee and appointed by the NASD Regulation Board.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (SR–NASD–98–36) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19568 Filed 7–22–98; 8:45 am]

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[11] In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] Securities Exchange Act Release No. 39175 (Sept. 30, 1997), 62 FR 53062 (Oct. 10, 1997).

[13] 15 U.S.C. 78s(b)(2).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40220; File No. SR–NYSE–98–18]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Filing of Certain Material in Electronic Format by Listed Companies

July 16, 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 July 9, 1998, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the NYSE. 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's rules require listed companies to file multiple copies of Commission reports and other materials with the Exchange. The Exchange is proposing to permit listed companies to comply with this obligation by filing certain material with the Commission through the Electronic Data Gathering, Analysis, and Retrieval ("EDGAR") system.

The text of the proposed rule change is available at the Office of the Secretary, the NYSE, 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 NYSE 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 NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to streamline filing requirements for listed companies by permitting them to file most Commission-required documents with the Exchange in electronic format.

The Exchange's rules required listed companies to file with it multiple copies of annual and interim reports, as well as other Commission filings, such as registration statements and prospectuses. The Commission also requires listed companies to file copies of Commission reports and registration statements with any national securities exchange on which their securities are listed. Listed companies currently file these materials with the Exchange in paper format, even if they file electronically with the Commission. Under the Commission's regulations, domestic registrants generally are required to file all material with the Commission through EDGAR.[3]

The proposed rule change provides that, with three exceptions, the EDGAR filing will satisfy the Exchange filing requirement.[4] The Exchange will have immediate and complete access to all filings in the same manner that it currently does, through its library, which is operated under contract with the Exchange by a "Level" EDGAR subscriber. In addition, the Exchange is considering additional forms of access for relevant Exchange personnel, such as through an EDGAR terminal on-site in the New Listings and Client Service offices. The relevant Exchange staff also has access to much of this information through the Commission's EDGAR site on the World Wide Web.

The three areas in which the Exchange will continue to require hard copy filing are:

• Material necessary to support a listing application. The Exchange currently accepts listing applications only in hard copy format. Thus, the Exchange will continue to require the exhibits and attachments to listing

[3] *See* Section 100 of Commission Regulation S–T.

[4] The Exchange will submit a request for a "no action" letter (the "No Action Letter"), on behalf of its listed companies, seeking Commission staff concurrence in the view that a company's filing of a report or other material covered by this rule change through EDGAR will satisfy the company's obligation under the Commission's rules to file the material with the Exchange. Although the proposed rule change is effective immediately upon filing, the Exchange will not implement the rule change until the Commission staff grants the No Action Letter.

applications, including Commission registration material, to be filed in hard copy form.

• Proxy material. The Exchange conducts an immediate review of proxy material, including preliminary material, for a number of purposes. For example, the Exchange reviews possible changes to the company's board of directors. The Exchange also reviews proxies to determine whether brokers-dealers may vote certain routine items pursuant to Exchange Rule 452. Until the Exchange has more experience in accepting filings through EDGAR, it believes it can best expedite this review if it continues to receive multiple paper copies of the proxy material.

• Forms 8–K. Listed companies file these "current reports" to provide notice of certain material events. Because these reports can provide an early warning of material corporate developments, the Exchange preliminarily believes that it would be appropriate to receive hard copy delivery of this information.

The Exchange will monitor the operation of this rule. Based on that monitoring, the Exchange will consider expanding the categories of reports and other materials that listed companies can file with the Exchange through EDGAR, and will file a proposed rule change with the Commission if it determines to expand the operation of the rule.

2. Statutory Basis

The NYSE believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act [5] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Act

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the Exchange and therefore, has become effective pursuant to Section 19(b)(3)(A)(i) of the Act,[6] and subparagraph (e) of Rule 19b–4 thereunder.[7] The Exchange will not implement the proposed rule change until the Commission staff grants the requested No Action Letter concurring in the Exchange's view that a company's filing of a report or other material covered by this rule change through EDGAR will satisfy the company's obligation under the Commission's rules to file the material with the Exchange.

At any time within 60 days of the filing of such proposed 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. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW, Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–18 and should be submitted by August 13, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19647 Filed 7–22–98; 8:45 am]

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[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A)(i).

[7] 17 CFR 240.19b–4.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–40212; File No. SR–OCC–98–02)

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Clarifying Rules Regarding the Unavailability of Current Index Values

July 15, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 20, 1998, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to clarify the application of OCC's by-laws relating to the unavailability or inaccuracy of current index values where there is an early closing of the primary market for the securities underlying an index option valued at the close.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B),

[1] 15 U.S.C. 78s(b)(1).

and (C) below, of the most significant aspects of such statements.[2]

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

OCC's current by-laws relating to the unavailability or inaccuracy of current index values for stock index options and for flexibly structured index options denominated in foreign currencies ("FX flex index options") were instituted as a result of a 1994 incident when a delayed National Association of Securities Dealers Automated Quote System opening made it unclear when or if OCC would be able to obtain current index values for options valued at the opening.[3] OCC is now authorized to delay exercise settlements until either (i) the required current index value becomes available or (ii) OCC fixes an exercise settlement amount, which may be based on the closing index value for the preceding trading day.

These provisions were intended to apply where the required index value, whether opening or closing, was unavailable to OCC either because the market did not open on the relevant date or because the reporting authority had problems calculating or disseminating the required value. However, these provisions can be misinterpreted as authorizing OCC to fix an exercise settlement amount for index options valued at the close when the market closes early. OCC interprets the current language of the by-laws as referring to the actual close of trading, not the scheduled close. There is no reliable basis for estimating what the current index value would have been if the market had remained open until the normal closing time. Even when OCC has no alternative but to fix an exercise settlement amount, the by-laws expressly authorize it to base that amount on the reported index level at the close of trading on the last preceding trading day for which a closing index level was reported.

OCC believes that it is inappropriate for OCC to fix an exercise settlement amount if normal trading takes place with opening and closing current index values for a given day so long as it is possible to obtain the required value from the designated reporting authority. The proposed rule change eliminates any implications that the provisions give OCC the authority to fix an exercise settlement amount in such circumstances.

OCC believes that the proposed rule change is consistent with Section 17A of the Act and the rules and regulations promulgated thereunder because it will facilitate the prompt and accurate settlement of transactions in index options and in FX flex index options.[4]

B. Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[5] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that OCC's proposed rule change is consistent with OCC's obligations under Section 17A(b)(3)(F) because the proposal will clarify the application of OCC's by-laws relating to the unavailability or inaccuracy of current index values where there is an early closing of the primary market for the securities underlying an index option valued at the close. The Commission believes that this clarification should add more certainty to the settlement of index options. Therefore, this proposed rule change should facilitate the prompt and accurate clearance and settlement of securities transactions.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing because accelerated approval will allow OCC to clarify its by-laws relating to exercise settlement procedures in an expedient fashion.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, 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 OCC. All submissions should refer to the File No. SR–OCC–98–02 and should be submitted by August 24, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–98–02) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19570 Filed 7–22–98; 8:45 am]

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[2] The Commission has modified parts of these statements.

[3] Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 32471 (ordering approving proposed rule change.)

[4] 15 U.S.C. 78q-1.

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40222; File No. SR–Phlx–98–19]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change Relating to When a Security Is Considered Open For Trading

July 16, 1998.

I. Introduction

On May 1, 1998, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to clarify when a security is considered open for trading. On May 26, 1998, the Phlx filed Amendment No. 1 to the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

proposal.[3] The proposed rule change and Amendment No. 1 were published for comment in the **Federal Register** on June 18, 1998.[4] No comments were received regarding the proposal.

II. Description of the Proposal

The Phlx proposes to amend Phlx Rules 1047 (Trading Rotations, Halts and Suspensions),[5] 1047A (Trading Rotations, Halts or Reopenings),[6] and Options Floor Procedure Advice G–2 ("Advice G–2") (Trading Rotations, Halts or Reopenings) to clarify when a security is open for trading. Currently, Commentary .01(a) of Rule 1047 states the opening rotation in each class of options shall be held promptly following the opening of the underlying security on the principal market where it is traded. However, neither Commentary .01 of Phlx Rule 1047, Phlx Rule 1047A, or Advice G–2 specifies when a security is considered open for trading. To clarify its rules, the Phlx proposes to amend Phlx Rule 1047, Commentary .01(a), Phlx Rule 1047A,[7] and Advice G–2 to indicate that an underlying security shall be deemed to have opened on the primary market where it is traded if such market has either (1) reported a transaction in the underlying security, or (2) disseminated an opening quotation for the underlying security and given no indication of a delayed opening. Thus, the proposal is intended to correct an ambiguity and expressly provide in Exchange rules that an opening quote may signal the opening of a security.

III. Discussion

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a national securities exchange. The Commission believes that the proposed rule change is consistent with Section 6 of the Act, in general,[8] and Section 6(b)(5),[9] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposed rule change is consistent with the Act in that it conforms the Phlx's rules to the rules of the other options exchanges,[10] thereby contributing to a fair and orderly market. Specifically, the Phlx's proposal will permit options opening rotations to commence upon the earlier of either a reported transaction in the underlying security or a reported market quote for the security, provided that the primary market has not indicated a delayed opening. Accordingly, the proposal will allow the Phlx to commence opening rotations after the primary market disseminates opening quotations for the underlying security, rather than waiting for an opening transaction in the underlying security.

The Commission believes that the proposed rule change should help to alleviate the risk of pricing disparities among the options exchanges and should allow the Phlx to compete effectively with the other options exchanges for order flow. In addition, by allowing the Phlx to commence opening rotations after the opening of the underlying security on the primary market where it is traded, the Commission believes that the proposal should decrease the time required to obtain opening market quotations and should allow free trading to commence as quickly as possible after the opening. As the Commission has noted previously, expedited free trading allows market makers to engage in hedging strategies as soon as possible after the opening and should promote the prompt execution of customer orders.[11]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[12] that the proposed rule change (SR–Phlx–98–19) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19569 Filed 7–22–98; 8:45 am]

BILLING CODE 8010–01–M

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[3] *See* Letter from Linda S. Christie, Counsel, Phlx, to Yvonne Fraticelli, Attorney, Division of Market Regulation ("Division"), Commission (May 22, 1998) ("Amendment No. 1"). In Amendment No. 1, Phlx replaces the phrase "principal exchange" in Rule 1047 with the phrase "primary market" to provide consistency with the language in the proposed amendments to Phlx Rule 1047A and Options Floor Procedure Advice G–2. Corresponding with Amendment No. 1, the word "exchange" should be replaced by the word "market" in the amended portion of Phlx Rule 1047. Telephone conversation between Linda S. Christie, Counsel, Phlx, and Marc McKayle, Attorney, Division, Commission (May 26, 1998).

[4] *See* Securities Exchange Act Release No. 40082 (June 10, 1998), 63 FR 33430 (June 18, 1998).

[5] Phlx Rule 1047 applies to equity options and to foreign currency options.

[6] Phlx Rule 1047A applies to index options.

[7] *See* Amendment No. 1, *supra* note 3.

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] *See* American Stock Exchange Rule 918(a)(1); Chicago Board Options Exchange Rule 6.2, Interpretation and Policy .01; and Pacific Exchange Rule 6.64, Commentary .01.

[11] *See* Securities Exchange Act Release Nos. 33494 (January 19, 1994), 59 FR 3889 (January 27, 1994) (order approving proposed rule change SR–CBOE–93–41 amending CBOE Rule 6.62, Interpretation and Policy .01 relating to opening transactions in Exchange-traded options); and 29652 (September 4, 1991), 56 FR 46454 (September 12, 1991) (order approving proposed rule change SR–CBOE–91–29 adding interpretation to CBOE Rule 6.1 relating to the posting of pre-opening market quote indications in designated options classes).

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describes the nature of the information collection and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on (1) Title: 49 CFR Part 580, Odometer Disclosure Statement, OMB No.: 2127–0047, was published on April 28, 1998 (63 FR 23336) and (2). Title: Upper Interior Component Head Impact Protection Phase-in Reporting Requirements, OMB Control Number: 2127–0581 was published on April 6, 1998 (63 FR 16856).

DATES: Comments must be submitted on or before August 24, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Robinson, NHTSA Information Collection Clearance Officer at (202) 366–9456.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

(1) Title: 49 CFR Part 580, Odometer Disclosure Statement.

OMB No.: 2127–0047.

Type of Request: Extension of a currently approved collection.

Affected Public: Individuals, Households, Business, other for-profit,

and Not-for-profit institutions, Federal Government, and State, Local or Tribal Government.

Abstract: The Federal odometer law, 49 U.S.C. Chapter 327, and implementing regulations, 49 CFR Part 580, require each transferor of a motor vehicle to provide the transferee with a written disclosure of the vehicle's mileage. This disclosure is to be made on the vehicle's title, or in the case of a vehicle that has never been titled, on a separate form. If the title is lost or is held by a lienholder, and where permitted by state law, the disclosure can be made on a state-issued, secure power of attorney.

Estimated Annual Burden: 2,586,160 hours.

(2) Title: Upper Interior Component Head Impact Protection Phase-in Reporting Requirements.

OMB Control Number: 2127–0581.

Type of Request: Extension of a currently approved collection.

Affected Public: Business or other for-profit.

Abstract: 15 U.S.C. 1392 of the National Traffic and Motor Vehicle Safety Act of 1966, authorizes the issuance of Federal Motor Vehicle Safety Standards (FMVSS). The agency, in prescribing a FMVSS, is to consider available relevant motor vehicle safety data, and to consult with the Vehicle Equipment Safety Commission and other agencies as it deems appropriate. Further, the Act mandates that in issuing any FMVSS, the agency considers whether the standard is "reasonable, practicable and appropriate for the particular type of motor vehicle or item of motor vehicle equipment for which it is prescribed," and whether such standards will contribute to carrying out the purpose of the Act. The Secretary is authorized to revoke such rules and regulations as she/he deems necessary to carry out this subchapter.

Annual Estimate Burden: 1,260 hours.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer.

Comments Are Invited On

Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 16, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–19564 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement: Cincinnati/Northern Kentucky International Airport; Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration announces that it will prepare an Environmental Impact Statement (EIS) for implementation of projects proposed in the Master Plan for Cincinnati/Northern Kentucky International Airport.

FOR FURTHER INFORMATION CONTACT: Peggy S. Kelley, Federal Aviation Administration, Airports District Office, 3385 Airways Blvd., Suite 302, Memphis, Tennessee 38116–3841; Telephone 901–544–3495, Ext. 19.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare and consider an EIS for implementation of proposed projects in the Master Plan Update for Cincinnati/Northern Kentucky International Airport.

The Kenton County Airport Board completed its Master Plan Update in 1996. The Master Plan was accepted by FAA June 7, 1996. The Airport Layout Plan was conditionally approved June 7, 1996, subject to environmental analysis. Major airfield improvements proposed in the Master Plan and to be assessed in the EIS are a third parallel north/south runway, 8000 feet long, located approximately 4300 feet west of the existing Runway 18R–36L; an extension of Runway 9–27, 2000 feet to the west; and construction of additional taxiways or taxiway extensions. Other improvements include proposed terminal expansion; proposed aviation related development; associated road relocation and construction; and parking improvements.

The Kenton County Airport Board conducted numerous workshops and a public hearing during the development of the Master Plan Study. To ensure that the full range of issues related to the proposed projects are addressed and that all significant issues are identified, FAA intends to consult and coordinate with Federal, State and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed projects. The meeting for public agencies will be held at Cincinnati/Northern Kentucky International Airport Board Room, located on the second level of Terminal One at the Airport, at 1:00 p.m., Tuesday, August 18, 1998. FAA will also solicit input from the public with two meetings. The first public scoping meeting will be Tuesday, August 18, 1998, from 5:00 to 8:00 p.m. at Oak Hills High School, 3200 Ebenezer Road, Cincinnati, Ohio, and the second public scoping meeting will be Wednesday, August 19, 1998, from 5:00 to 8:00 p.m. at Conner Middle School, 3300 Cougar Path, Hebron, Kentucky. In addition to providing input at the public scoping meetings, the public may submit written comments on the scope of the environmental study to the address identified in **FOR FURTHER INFORMATION CONTACT.** Comments should be submitted within 30 days of the publication of this Notice.

Issued on July 9, 1998, in Memphis, Tennessee.

Charles L. Harris,

Assistant Manager, Memphis Airports District Office.

[FR Doc. 98–19584 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 135; Environmental Conditions and Test Procedures for Airborne Equipment

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. Appendix 2), notice is hereby given for Special Committee (SC)–135 meeting to be held August 6–7, 1998, starting at 9:00 a.m. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Opening Remarks; (2) Introductions; (3) Acknowledgement/ Identification of Change Coordinators for Each Section of DO–160; (4) Review and Approval of Minutes of the

Previous Meeting; (5) Review Papers/ Comments Received Since the Release of DO–160D; (6) Identify Next Steps and Develop a Plan to Accomplish Them; (7) Review Section 20 Working Group Activities; (8) New/Unfinished Business; (10) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 17, 1998.

Janice L. Peters,

Designated Official.

[FR Doc. 98–19667 Filed 7–22–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Transportation Equity Act for the 21st Century; Implementation Guidance for Discretionary Program Funds for Bridges, Ferry Boats, Interstate Maintenance, and Public Lands Highways

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This document publishes implementation guidance on the Transportation Equity Act for the 21st Century (TEA–21) enacted on June 9, 1998, for eligible candidate projects in Fiscal Year 1999 concerned with the discretionary bridge program and in Fiscal Years 1998 and 1999 concerned with the ferry boat discretionary program, the interstate maintenance discretionary program, and the public lands highways discretionary program. Implementation guidance materials on these topics were issued to FHWA region and division offices on June 25, 1998. This material describes activities eligible for discretionary funding, the application process, and criteria used to evaluate candidate projects.

FOR FURTHER INFORMATION CONTACT: *For bridge program:* Mr. Robert C. Wood, HNG–33, (202)366–4622; *For ferry boat program:* Mr. John C. Wasley, HNG–12, (202)366–4658; *For interstate maintenance program:* Mr. Cecilio A. Leonin, HNG–12, (202)366–4651; *For public lands highway program:* Mr. Lawrence J. Beidel, HNG–12, (202)366–1564; *For legal issues:* Mr. Wil Baccus, HCC–32, Office of the Chief Counsel, (202)366–1396, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except for Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202)512–1661. Internet users may reach the Federal Register's home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

The TEA–21 (Pub. L. 105–178, 112 Stat. 107) implementation guidance published in this **Federal Register** notice is provided for informational purposes. Specific questions on any of the material published in this notice should be directed to the contact person named in the caption **FOR FURTHER INFORMATION CONTACT** for the program in which you have interest.

(Authority: 23 U.S.C. 315; 49 CFR 1.48)

Issued on: July 15, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

The text of four FHWA memoranda follows:

June 25, 1998.

[HNG–33]

ACTION: Request for Projects for Fiscal Year (FY) 1999 Discretionary Bridge Program

(*Reply Due:* September 1, 1998)

Associate Administrator for Program Development
Regional Administrators
Division Administrators

With passage of the Transportation Equity Act for the 21st Century (TEA–21), the Discretionary Bridge Program (DBP) has been continued through FY 2003. Section 1109 of TEA–21 authorizes in FY 1999, $100 million for bridge replacement and rehabilitation projects with a maximum of $25 million of that amount being available only for projects for the seismic retrofit of bridges, including projects in the New Madrid fault region.

With this memorandum, we are requesting submission of eligible candidate projects for FY 1999 DBP funds. We are requesting that candidate project submissions be received in Headquarters no later than September 1. Candidate projects should be supported by State documents, including a description of the proposed project(s), total project(s) costs, anticipated letting date(s), and a one page project briefing paper.

Eligibility

The DBP funds are available for deficient highway bridges located on Federal-aid highways that have a replacement or rehabilitation cost of more than $10 million, or a cost that is twice the amount apportioned under 23 U.S.C. 144(e) to the State in which the bridge is located. Please refer to 23 CFR 650 Subpart G for additional eligibility criteria.

In accordance with 23 U.S.C. 144(d), seismic retrofit projects for non-deficient highway bridges are also eligible. Therefore, bridges only in need of seismic retrofitting will be considered along with deficient bridges for allocating a portion of the FY 1999 funds.

Selection Criteria

The DBP selection criteria have previously been published in the **Federal Register** (48 FR 52296, November 17, 1983) and are also codified as 23 CFR 650 Subpart G. To evaluate the submitted candidates for selection, we will be considering several criteria. The following statutory and regulatory criteria are found in 23 U.S.C. 144(d), 23 CFR 650 Subpart G, and Section 1223 of TEA–21:

1. The Rating Factor formula (23 CFR 650 Subpart G),

2. Special considerations including unique situations (23 CFR 650 Subpart G). The FHWA has identified the need for seismic retrofitting as a unique situation.

3. Seismic retrofit allocations for non-deficient bridges (23 U.S.C. 144(d)).

4. Priority may be given to funding a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event if the project meets the extraordinary needs associated with such events and is otherwise eligible for assistance with DBP funds (Section 1223).

The following criteria are also considered in the evaluation of candidates for the DBP:

1. Leveraging of private or other public funding—Because the annual requests for funding far exceed the available DBP funds, a commitment of other funding sources to complement

the requested DBP funding is an important factor.

2. Expeditious completion of project—Preference is also given to requests that will expedite the completion of a viable project over requests for initial funding of a project that will require a long-term commitment of future DBP funding. For large-scale projects, consideration is given to the State's total funding plan to expedite the completion of the project.

3. National geographic distribution of the funding within the DBP—Consideration is also given to providing funding to States to provide some geographic balance for the program. The project selection process may also consider national geographic distribution among all of the discretionary programs, as well as congressional direction or guidance provided on specific projects or programs.

Submission Requirements

Attached is an application form for providing project information. The form should be completed by the State and submitted along with supporting documents that describe the project.

Preliminary engineering is not an eligible item for DBP funding, but the State could elect to use other eligible Federal-aid funding sources. Submissions requesting right-of-way acquisition with DBP funds will be given low priority. States should be encouraged to seek other sources of funding for perennial ready-for-construction DBP candidates, which are unlikely to be selected because of high rating factors.

The DBP funds will not be allocated to a State that has, in FY 1998, transferred HBRRP funds to other categories. This is in accordance with our November 3, 1992, memorandum on the subject of Transfer of Funds/ Discretionary Allocations (copy attached).

For bridge candidates, the Total Project Cost Estimate (TPCE) for the project is to include preliminary engineering, right-of-way and construction costs associated with eligible bridge (including seismic retrofitting costs if applicable), and bridge approach work. The TPCE of the bridge and bridge approaches is used in determining project eligibility and then in the rating factor computation. Therefore, particular care should be taken to ensure that estimates near the minimum $10 million project cost limit are accurate.

For seismic retrofit candidates only, the TPCE will be the total cost of the seismic retrofit construction.

Division Office Responsibilities

In order to ensure that the submitted candidates are complete and properly prepared, it is requested that the field offices:

1. Provide this information regarding project eligibility, selection criteria and submission requirements to the State transportation agency, and

2. Review all candidate applications submitted by the State prior to sending them to this office to ensure that they are complete and meet the above requirements.

If there are questions, please contact the Bridge Division at (202) 366–4617.

Henry H. Rentz for Thomas J. Ptak

2 Attachments

BILLING CODE 4910–22–P

ATTACHMENT NO. 1:

FY 1999 REQUEST FOR DISCRETIONARY BRIDGE PROGRAM FUNDS

APPLICATION FORM

Bridge Name _____ State _____

NBI Structure Number (15 Digits) _____

U.S. Congressional District and Member's Name: _____

Facility Carried _____ Facility Intersected _____

Type of Work: BHF ___ BRF ___ Seismic Retrofit ___ Date of Last Inspection _____

Sufficiency Rating(from SI&A Sheet) _____ Defense Highway: Yes (1.5) ___ No (1.0) ___

ADT(from SI&A Sheet): _____ ADTT: _____ ADT': _____

FY 1999 Request: (in dollars)	Entire Project	Bridge and Bridge Approaches (PE, ROW, Con.)	Discretionary Request (Construction only)
TPCE	_____	_____	_____
Federal Share (80%)		_____	_____
Non-Fed. Matching (20%)		_____	_____

FY 1999 Discretionary Request and Obligation Schedule (FY Quarter; CON only)

CONSTRUCTION: 1stQ: _____ 2ndQ: _____ 3rdQ: _____ 4thQ: _____

Describe the construction activities (substructure, superstructure, main span, approach work, seismic retrofit, etc.): _____

Load Posted: Yes: ___ No: ___ List the load posting (if yes): _____

Rating Factor : _____ (FHWA to compute referring to 23 CFR 650 Subpart G)

Seismic retrofit construction candidates only:

(Include here the seismic retrofit costs only) TPCE _____

Federal Share _____

Non-Fed. Matching (20%) _____

Does this project qualify for priority under the provisions of Section 1223 of TEA-21 (Transportation Assistance for Olympic Cities)? Yes ___ No ___

NOTES: 1. A current briefing is to be provided for each project.

2. BHF = Bridge Rehabilitation on a Federal-aid highway; BRF = Bridge Replacement on a Federal-aid highway.

3. Figures in [ ] to be used in rating factor calculation.

4. TPCE = Total Project Cost Estimate of bridge and bridge approach work.

Attachment No. 2

Nov. 3, 1992.

[HNG–13]

INFORMATION: Transfer of Funds/ Discretionary Allocations
Director, Office of Engineering
Regional Federal Highway Administrators
Federal Lands Highway Programs Administrator

The purpose of this memorandum is to make you aware of a consideration utilized in the allocation of Interstate 4R discretionary funds and Bridge discretionary funds.

Interstate 4R Discretionary Allocations

Discretionary funds will not be allocated to a State that has, in the preceding fiscal year, transferred either National Highway System or Interstate Maintenance funds to the STP apportionments.

Bridge Discretionary Allocations

Discretionary funds will not be allocated to a State that has, in the preceding fiscal year, transferred Highway Bridge Replacement and Rehabilitation funds.

We recognize Congress provided flexibility to States by allowing the transfer of these apportionments to other programs. There are, however, tremendous Interstate System and bridge needs across the country and we believe the congressional intent is to give priority consideration to high cost projects in States where available apportionments are insufficient to allow such projects to proceed on a timely basis.

Please take the necessary steps to make sure States are aware of this consideration.

Thomas O. Willett

June 25, 1998.

[HNG–12]

ACTION: Ferry Boat Discretionary (FBD) Program Request for Projects for FYs 1998 and 1999 Funding

(Reply Due: September 1, 1998)

Associate Administrator for Program Development
Regional Administrators
Division Administrators

Section 1207 of the Transportation Equity Act for the 21st Century (TEA–21) reauthorized the funding category for the construction of ferry boats and ferry terminal facilities created by Section 1064 of the 1991 ISTEA. For FY 1998, $30 million is authorized from the Highway Trust Fund for the FBD program. Subsequent funding of $38 million is authorized for each of FYs 1999 through 2003. The TEA–21 also includes a new requirement that $20 million from each of FYs 1999 through 2003 be set aside for marine highway systems that are part of the National Highway System for use by the States of Alaska, New Jersey, and Washington. As a result, for each of FYs 1999 through 2003, the amount of FBD funding available for open competition among all States is $18 million with a non-competitive amount of $20 million set aside for Alaska, New Jersey, and Washington..

The FBD funds, including both the competitive amount available to all States and the set-aside for the three States, are not subject to lapse; however, they are subject to obligation limitation. A proportional share of obligation authority will accompany allocated funds. The Federal share is 80 percent.

The purpose of this memorandum is to solicit candidate projects for the competitive portion of the FBD funds. Implementation of the non-competitive portion involving Alaska, New Jersey, and Washington will be handled by separate memorandum at the beginning of FY 1999 when the set-aside FBD funds are first available to these three States.

For the competitive portion of the FBD funds, we are combining into one call (solicitation) the submissions of candidate projects for FYs 1998 and 1999 funds. A total of $48 million for the two fiscal years combined ($30 million and $18 million) will be available to fund FBD projects. The "open competition" portion of the discretionary funds is available to all States (including the three designated States that also receive set-asides) for the construction of ferry boats and ferry terminal facilities serving as a link on any highway route, other than an Interstate highway, and for passenger ferries and ferry terminals.

With this memorandum, we are requesting the States to submit candidate projects for our consideration for funding in FYs 1998 and 1999. Please work with the States to identify viable projects to assure high quality candidates for this program. The three States designated for the set-aside funding should not submit projects that they plan to fund from their individual State set-aside.

Eligibility

As specified in Section 1064 of the 1991 ISTEA, this program is for the construction of ferry boats and ferry terminal facilities in accordance with 23 U.S.C. 129. Proposals should meet the basic eligibility criteria in 23 U.S.C. 129(c). The TEA–21 contains amendments to 23 U.S.C. 129 that expand the eligibility criteria for FBD funding to include ferry boats and ferry terminal facilities that are publicly "operated," and those with the public authority having a "majority ownership interest" provided the operation provides substantial public benefits.

Discretionary funds are available for improvements to ferry boats or ferry boat terminals where:

- The ferry facility is providing a link on a public road (other than Interstate) or the ferry facility is providing passenger only ferry service.
- The ferry and/or ferry terminal to be constructed or improved is either publicly owned, publicly operated, or a public authority has majority ownership interest where it is demonstrated that the ferry operation provides substantial public benefits.
- The ferry does not operate in international water except for Hawaii, Puerto Rico, Alaska and for ferries between a State and Canada.

Selection Criteria

To evaluate the submitted candidates for selection, we will be considering several criteria. Although there are no statutory or regulatory criteria for selection of FBD projects, the following criteria are considered in the evaluation of candidates for this program:

1. Expeditious completion of project—Consideration is given to requests that will expedite the completion of a viable project. This is a project's ability to expeditiously complete *usable facilities* within the limited funding amounts available.

2. Leveraging of private or other public funding—Because the annual requests for funding far exceed the available FBD funds, commitment of other funding sources to complement the requested FBD funding is an important factor.

3. Amount of FBD funding—The requested amount of funding is a consideration. Realizing the historically high demand of funding under this program, we are looking for modest sized requests for funding (generally less than $2 million) to allow more States to receive funding under this program.

4. State priorities—For States submitting more than one project, we will consider the individual States priorities if specified.

5. National geographic distribution of funding within the FBD program—Consideration is given to selecting projects over time among all the States competing for funding.

In addition to the above criteria, project selection will also consider national geographic distribution among

all the discretionary programs as well as congressional direction or guidance provided on specific projects or programs.

Submission Requirements

Although there is no prescribed format for a project submission, the following information must be included to properly evaluate the candidate projects. With the exception of the project area map, all of the following must be included to consider the application complete. The information does not have to be lengthy. Do not include reports but rather provide simple concise statements. Incomplete applications will be returned unprocessed.

1. *State(s)* in which the project is located.
2. *County(ies)* in which the project is located.
3. *U.S. Congressional District No.(s)* in which the project is located.
4. *U.S. Congressional Member's Name(s)* for each District.
5. *Facility or Project Name* commonly used to describe the facility or project.
6. *Service Termini and Ports* for the ferry boat operation including the name of water crossing. A statement must be included for ferry boat operations carrying motorized vehicles, describing the link in the roadway system. Please clearly identify any "passenger only" ferry service, and explain how the ferry service is linked to public transportation or is part of a transit system. Also, for each project please indicate if the project is part of an existing link or service or if it is new service. Also identify if the ferry operates in domestic, foreign or international waters.
7. *Ownership/Operation* must be specified. Please indicate which of the following apply:

- The boat or terminal is publicly owned. The term "publicly owned" means that the title for the boat or terminal must be vested in a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality.
- The boat or terminal is publicly operated. The term "publicly operated" means that a public entity operates the boat or terminal.
- The boat or terminal is "majority publicly owned" (as opposed to public owned). This means that more than 50 percent of the ownership is vested in a public entity. If so, does it provide substantial public benefits? Documentation of substantial public benefits, concurred in by the division office, is required for ferry facilities that are in majority public ownership.

8. *Current and Future Traffic* including the functional classification of the route that the project is located on along with a general description of the type and nature of traffic, both current and design year average daily traffic or average daily passenger volumes, on the route if available. The general description could include information on year round or seasonal service; commuter, recreational or visitor ridership; traffic generators and attractions.

9. *Proposed Work* should describe the project work to be completed under this particular request, and whether this is a complete project or part of a larger project.

10. *Amount of Federal FBD Discretionary Funds Requested* for the proposed work. The total cost for the proposed work should be shown along with the requested amount of FBD funding (this should reflect that the maximum Federal share for this program is 80 percent). A State's willingness to accept partial funding should be indicated.

11. *Commitment of Other Funds*—Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm and documented commitments. The submission must include written confirmation of these commitments from the entity controlling the funds.

12. *Previous FBD Discretionary Funding*—Indicate the amount and fiscal year of any previous FBD discretionary funds received for this project, terminals or ferry boats operating on this route or transit system.

13. *Future Funding Needs*—Indicate the estimated future funding needs for the project or facility if known. Also, provide estimated time schedules for implementing future projects. This information will be used to identify funding commitments beyond the presently proposed project and in outlying years.

14. *Talking Points Briefing*—Each State's request for ferry boat discretionary funds must be accompanied by a talking points paper for use by the Office of the Secretary for the congressional notification process should a project be selected for funding. A sample paper is attached to this memorandum.

15. *Project Area Map*—A readable location/vicinity map showing the ferry route and terminal connections would be helpful if available.

Division Office Responsibilities

In order to ensure that the submitted candidates are complete and properly prepared, the division office must:

1. Provide this information regarding project eligibility, selection criteria and submission requirements to the State transportation agency, and

2. Review all candidate applications submitted by the State prior to sending them to this office to ensure that they are complete and meet the above requirements.

When sending in candidate projects, the States must understand that any qualified project may or may not be selected, and it may be necessary to supplement FBD funds with other Federal-aid and/or State funds.

Any allocations in FY 1999 will be made on the assumption that proposed projects are viable and implementation schedules are realistic. Any unobligated balances remaining on September 15, 1999, will be withdrawn and used for funding future fiscal year requests.

Because of the compressed time period available, candidate projects should be submitted to us no later than *September 1, 1998. Projects received after this date may not receive full consideration.* Questions on this memorandum may be directed to Mr. Jack Wasley of the Federal-Aid and Design Division at 202–366–4658.

Henry H. Rentz for Thomas J. Ptak

Attachment

Sample Talking Points Briefing for Secretary's Office

Note: These talking points will be used by the Office of the Secretary in making congressional notification contacts. Since some of the recipients of the calls may not be closely familiar with the highway program, layman's language should be used to the extent possible. Information contained in the talking points may be used by a member of Congress in issuing a press release announcing the discretionary allocation.

Ferry Boat Discretionary (FBD) Funds

GRANTEE: *<List full name of State Highway Agency>*

REPRESENTATIVE/SENATOR: *<List full names>*

PROJECT: *<short name/description of project>*

Example: Northport to Fort Bischer/ Build a 180' Ferry

FHWA FUNDS: *<requested funds>*

Example: $1,200,000

Will the Project be advanced with State funds even if FBD funds are not received? If so, what year?

Were we asked to consider an overmatch (i.e. more than 20%)

<List talking points with little o bullets, note italicized items are requested bullets>

Examples:

• This project is needed to replace the MV Good Times which is currently running at the Northport Operation. This operation provides service across the Little Pike River and is a link between SR 21 and U.S. 52, both of which are classified as principal arterials.

• Limited roadway access has created intolerable congestion on the existing approaches to the city. The project will relieve congestion on the local system which is presently operating at capacity during peak hour. (If there is anything innovative about the project be sure and mention in layman's terms.)

• Project is in Congressional district *<add number and member's name>*.

• This project is part of the State's ferry boat program. Annually the State spends $19 million to operate seven ferry routes, and receives an average of $1.5 million annually in tolls from three of these routes.

• The project will be advertised for construction in *<month/year>* and is scheduled for completion in *<month/year>*.

June 25, 1998

[HNG–12]

ACTION: Request for Projects for Fiscal Year 1998 and 1999 Interstate Maintenance Discretionary (IMD) Funds

(Reply Due: September 1, 1998)

Associate Administrator for Program Development
Regional Administrators
Division Administrators

Section 1107(b) of the Transportation Equity Act for the 21st Century (TEA–21) amended Section 118 (c), of Title 23, United States Code (23 U.S.C.) and provides that before any apportionment of Interstate Maintenance (IM) funds is made under Section 104(b)(4) of 23 U.S.C., the Secretary shall set aside $50,000,000 in fiscal year (FY) 1998 and $100,000,000 in each of FYs 1999 through 2003 for obligation by the Secretary for IMD projects for *resurfacing, restoring, rehabilitating and reconstructing* (4R) any route or portion thereof on the Interstate System with certain exceptions (see below).

In order to facilitate the orderly development and review of candidate projects, we intend to combine the $150 million authorized in total for FY 1998 and FY 1999 IMD funding into one solicitation. Please work with the States to identify viable projects to assure high quality candidates for this program.

Eligibility

The eligibility criteria for IMD projects is provided in Section 118(c) of 23 U.S.C.

1. IMD funds are available for 4R work (including added lanes) on the Interstate System. However, not eligible for allocation of IMD funds are projects on any highway designated as a part of the Interstate System under Section 139 of 23 U.S.C., as in effect before the enactment of TEA–21 and any toll road on the Interstate System not subject to an agreement under Section 119(e) of 23 U.S.C., as in effect on December 17, 1991.

2. A State is eligible to receive an allocation of IMD funds if it has obligated or demonstrates that it will obligate in FY 1999 all of its IM funds apportioned under Section 104(b)(4) of 23 U.S.C., other than an amount which by itself, is insufficient to pay the Federal share of the cost of a project for resurfacing, restoring, rehabilitating, and reconstructing the Interstate System which has been submitted by the State to the Secretary for approval.

3. The applicant must be willing and able to obligate the IMD funds within 1 year of the date the funds are made available, apply them to a ready-to-commence project, and in the case of construction work, begin work within 90 days of obligation.

Selection Criteria

To evaluate the submitted candidates for selection, we will be considering several criteria. The following statutory criteria for priority consideration are found in 23 U.S.C. 118(c)(3) and Section1223 of TEA–21:

1. Any project the cost of which exceeds $10 million [Section 118].

2. A project on any high volume route in an urban area or high truck-volume route in a rural area. [Section 118].

3. Priority may be given to funding a transportation project relating to an international quadrennial Olympic or Paralympic event, or a Special Olympics International event if the project meets the extraordinary needs associated with such events and is otherwise eligible for assistance with IMD funds [Section 1223].

Although there are no regulatory criteria for selection of IMD projects, the following criteria are also considered in the evaluation of candidates for this program:

1. Leveraging of private or other public funding—Because the annual requests for funding far exceed the available IMD funds, commitment of other funding sources to complement the requested IMD funds is an important factor.

2. State priorities—For States that submit more than one project, we give consideration to the individual State's priorities if specified.

3. Expeditious completion of project—Preference is also given to requests that will expedite the completion of a viable project over requests for initial funding of a project that will require a long-term commitment of future IMD funding. For large-scale projects consideration is given to the State's total funding plan to expedite the completion of the project.

In addition to the above criteria, project selection will also consider national geographic distribution among all of the discretionary programs as well as congressional direction or guidance provided on specific projects or programs.

Submission Requirements

Although there is not a prescribed format for a project submission, the following information must be included in the application to properly evaluate the candidate projects. Those applications that do not include these items will be considered incomplete and returned.

1. *State.*

2. *Federal-Aid Project Number.*

3. *Description of Project*—Describe the project work to be completed under this request. If the project is related to one of the Olympic events listed in Section 1223 of TEA–21, that relationship should be described.

4. *Project Location*—Describe the specific location of the project, including route number and mileposts, if applicable.

5. *County or Counties* in which the project is located.

6. *U.S. Congressional District No.(s)* in which the project is located.

7. *U.S. Congressional District Member's Name(s).*

8. *Current 2-Way Average Daily Traffic including percentage of trucks.*

9. *Name of Urban Area* or indicate if located in a rural area.

10. *Number of lanes* before and after construction of the project. The number of lanes and current ADT are used to gauge the degree of congestion on the route.

11. *Project Plan Status*—PS&E status.

12. *Estimated Authorization Date (month/year).*

13. *Total Project Cost.*

14. *Amount of IMD funds requested*—Indicate amount of IMD funds being requested. If a State is willing to accept partial funding of this amount, that should be indicated. Sometimes, partial funding of requests is utilized to provide funding for more projects since

the requests far exceed the available funds.

15. *An Obligation Schedule*—Demonstrate how the State will obligate all of its IM apportionments before the end of FY 1999.

16. *Commitment of Other Funds*—Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm with documented commitments. The submission must include written confirmation of these commitments from the entity controlling the funds.

17. *Previous Interstate 4R Discretionary (IDR) Funding*—Indicate the amount and fiscal year of any previous IDR funds received for the project.

18. *Future Funding Needs*—Indicate the estimated future funding needs for the project, including anticipated requests for additional IMD funding, the items of work to be completed and projected scheduling.

19. *Talking Points Briefing*—A one-page talking points paper covering basic project information for each candidate project submitted for IMD funding is needed for use by the Office of the Secretary for the congressional notification process in the event a project is selected for funding. For your guidance a sample paper is attached to this memorandum.

Division Office Responsibilities

In order to ensure that the submitted candidate projects are complete and properly prepared, the Division Office must:

1. Provide the information regarding project eligibility, selection criteria and submission requirements to the State transportation agency, and

2. Review all candidate project applications submitted by the State prior to sending them to this office to ensure that they are complete and meet the above requirements.

We are requesting that candidate project submissions be forwarded to the Chief, Federal-Aid and Design Division, HNG–12, not later than *September 1, 1998. Projects received after this date may not receive full consideration.*

When sending in candidate projects, the States must understand that any qualified project may or may not be selected and it may be necessary to supplement allocated IMD funds with other Federal-aid and/or State funds to construct a section of highway which will be usable to the traveling public in as short a period of time as possible.

Allocations of IMD funds shall remain available until expended. Obligation limitation will be distributed with each allocation of funds.

As a reminder, any requests to adjust the amount of IMD funds allocated to a specific project must be forwarded in writing to the Chief, Federal-Aid and Design Division, HNG–12, for approval. Furthermore, funds from unobligated allocations or project underruns cannot be used for another IMD project without the written approval of the Chief, Federal-Aid and Design Division.

Questions concerning preparation of applications and other matters may be directed to Mr. Cecilio Leonin of the Federal-Aid and Design Division, HNG–12, telephone (202) 366–4651.

Henry H. Rentz for Thomas J. Ptak

Attachment

Sample Talking Points Briefing for Secretary Slater

Note: These talking points will be used by the Office of the Secretary in making congressional notification contacts. Since some of the recipients of the calls may not be closely familiar with the highway program, layman's language should be used to the extent possible. Information contained in the talking points may be used by a member of Congress in issuing a press release announcing the discretionary allocation.

Interstate Maintenance Discretionary (IMD) Funds

GRANTEE: <*List full name of State Highway Agency*>
PROJECT NO: IMD-xxx-x(xxx)
<*List each project number in this format*<
FHWA FUNDS: $xx,xxx,xxx. <*If more than one project, also show cost for each*<

- This project provides for resurfacing ____.____ miles of the two northbound lanes of I-xx in _____ county, extending from the U.S. Route 1 interchange at Hometown to the State Road 2 overpass in the vicinity of Smallville.
- The project provides for a 2-inch overlay of the existing bituminous concrete pavement which is badly deteriorated and rutted. (If there is anything innovative about the project be sure and mention in layman's terms.)
- Project IMD-xxx-x(xxx) is in Congressional district <*add number and member's name*>.
- This project is part of the second phase of a 5-year program to resurface a 25-mile section of I-xx between Town-A and Town-B. In 1998, the southbound lanes at this same location are being resurfaced using State funds.
- In addition to State matching funds, a portion of the total project cost will be financed by $_____ in funds provided by _____.
- The project includes improvements to several safety features within the project limits including upgrading of guardrail and traffic signs.
- The project will be advertised for construction in <*month/year*> and is scheduled for completion in <*month/year*>.

June 25, 1998

[HNG–12]

ACTION: Request for Projects for Fiscal Year, (FY) 1999 Public Lands Highways (PLH) Discretionary Funds (Reply Due: September 1, 1998)

Associate Administrator for Program Development
Regional Administrators
Division Administrators
Federal Lands Highway Program Administrator

With passage of the Transportation Equity Act for the 21st Century (TEA–21), the PLH discretionary program has been continued through FY 2003. As you are aware, the Surface Transportation Extension Act of 1997 provided the initial FY 1998 funding for the PLH program, and we allocated those available PLH discretionary funds to 10 projects earlier this year.

There is approximately $30 million of additional FY 1998 funds provided by TEA–21. We had originally intended to allocate these additional FY 1998 funds to additional projects selected from the previously submitted FY 1998 candidates. Because we are nearing the last quarter of FY 1998, we have instead decided to combine the available FY 1998 and FY 1999 funds in one solicitation.

With this memorandum, we are requesting submission of eligible candidate projects for FY 1999 PLH discretionary funds. It appears that approximately $80 million will be available for allocation in FY 1999. Combined with the $30 million FY 1998 funds, the total available funding for FY 1999 candidates is approximately $110 million. Please work with the States to identify viable projects to assure high quality candidates for this program.

Eligibility

The PLH funds are available for *any kind of transportation project eligible for assistance under Title 23, United States Code, that is within, adjacent to, or provides access to the areas served by the public lands highway.* The PLH funds are available for planning, research, engineering, and construction of the highways or of transit facilities within public lands. In addition, eligible projects under the PLH program may include the following:

1. Transportation planning for tourism and recreational travel, including the National Forest Scenic Byways Program, Bureau of Land Management Back Country Byways Program, National Trail System Program, and other similar Federal programs that benefit recreational development.
2. Adjacent vehicular parking areas.
3. Interpretive signage.
4. Acquisition of necessary scenic easements and scenic or historic sites.
5. Provision for pedestrians and bicycles.
6. Construction and reconstruction of roadside rest areas, including sanitary and water facilities.
7. Other appropriate public road facilities such as visitor centers.
8. A project to build a replacement of the federally owned bridge over the Hoover Dam in the Lake Mead National Recreation Area between Nevada and Arizona (added by Section 1115 of TEA–21).

The term "public lands highway" means a forest road under the jurisdiction of and maintained by a public authority and open to public travel or any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel. Federal reservations are considered to include lands owned by the Department of the Interior, Department of Agriculture, Department of Defense and other Federal Agencies.

In addition, Section 1203 of TEA–21 provides that up to "1 percent of the funds allocated under 23 U.S.C. 202 may be used to carry out the transportation planning process for the Lake Tahoe region," and that highway projects included in these transportation plans "may be funded using funds allocated under 23 U.S.C. 202." Applications for these activities, therefore, could also be submitted requesting PLH discretionary funding.

Selection Criteria

To evaluate the submitted candidates for selection, we will be considering several criteria. The following statutory criteria are found in 23 U.S.C. 202(b):

1. The funds shall be allocated "among those States having unappropriated or unreserved public lands, nontaxable Indian lands or other Federal reservations, on the basis of need in such States," and
2. We are required to "give preference to those projects which are significantly impacted by Federal land and resource management activities which are proposed by a State which contains at least 3 percent of the total public lands in the Nation."

Although there are no regulatory criteria for selection of PLH discretionary projects, the following criteria are also considered in the evaluation of candidates for this program:

1. Equitable distribution of funding among the States—In applying this criterion, we look at PLH discretionary funding distributed over the past 20 years and consider two factors in determining a State's fair share of this distribution. These factors are the State's share of the Nation's Federal public lands and the percentage of an individual State's area that is comprised of Federal public lands. Preference is given to those States that are "behind" in their fair share of the funding.
2. Leveraging of private or other public funding—Because the annual requests for funding far exceed the available PLH discretionary funds, commitment of other funding sources to complement the requested PLH discretionary funding is an important factor.
3. Expeditious completion of project—Preference is also given to requests that will expedite the completion of a viable project over requests for initial funding of a project that will require a long-term commitment of future PLH funding. For large-scale projects consideration is given to the State's total funding plan to expedite the completion of the project.
4. Amount of PLH funding—The requested amount of funding is another consideration. For States that have a relatively small amount of Federal public lands, more moderately sized (< $500,000) project requests are given more favorable consideration.
5. State priorities—For States that submit more than one project, we give consideration to the individual State's priorities if specified.
6. National geographic distribution of the funding within the PLH program—Although preference is to be given to the States with at least 3 percent of the Nation's public lands, consideration is also given to providing funding to States in the eastern part of the country to provide some geographic balance for the program.
7. Program Emphasis Area—Priority will be given to projects for the construction or restoration of nationally significant trails. This reflects the on-going development of a Millennium Trails Program to commemorate the heritage of trails important to our past and celebrate the legacy of new and restored trails for our future.

In addition to the above criteria, project selection will also consider national geographic distribution among all of the discretionary programs as well as congressional direction or guidance provided on specific projects or programs.

Submission Requirements

Although there is not a prescribed format for a project submission, the following information must be included to properly evaluate the candidate projects. With the exception of the project area map, all of the following must be included to consider the application complete. Those applications that do not include these items will be considered incomplete and returned.

1. *State* in which the project is located.
2. *County* in which the project is located.
3. *U.S. Congressional District No.(s)* in which the project is located.
4. *U.S. Congressional District Member's Name(s).*
5. *Project Location*—Describe the specific location of the project, including route number and mileposts, if applicable.
6. *Public Lands Category*—Specify what Federal public lands are being served by the project and whether the project is within, adjacent to, or provides access to the public lands.
7. *Proposed Work*—Describe the project work to be completed under this particular request, and whether this is a complete project or part of a larger project.
8. *Project Purpose*—The States' submission should show how the proposed project and/or the highway route of which it is a part meet the Federal land and resource management needs in the State. This should include status and adequacy of the existing route with regard to route continuity, capacity and safety and the benefits anticipated from completion of the proposed project.
9. *Planning and Coordination*—For the proposed project, describe the coordination with and input from the various Federal land management, State, and metropolitan planning agencies involved. Section 204(a) of Title 23, United States Code, as amended, requires all regionally significant Federal lands highways program projects to be developed in cooperation with States and metropolitan planning organizations, and included in appropriate Federal lands highways program, State, and metropolitan plans and transportation improvement programs.

10. *Current and Future Traffic*—For highway projects provide the current and design year average daily traffic. For other facilities, such as visitor centers, it may be desirable to describe the number of visitors accommodated by the facility.

11. *Project Administration*—Indicate whether the Federal funds for this project will be administered by the State transportation agency or a Federal Lands Highway Division (FLHD) of FHWA. If the FLHD or other Federal Agencies are involved, the type of involvement, whether it is preliminary engineering or contract administration, or other, should be specified. Also, the FLHD is available to assist you with Federal Agency coordination and should provide you with any data and information requested.

12. *Amount of Federal PLH Discretionary Funds Requested*—Indicate the amount of Federal PLH funds being requested for FY 1999. If a State is willing to accept partial funding of the request, that should also be indicated. Sometimes partial funding of requests is utilized to provide funding to more projects, since the requests far exceed the funding available.

13. *Commitment of Other Funds*—Indicate the amounts and sources of any private or other public funding being provided as part of this project. Only indicate those amounts of funding that are firm and documented commitments. The submission must include written confirmation of these commitments from the entity controlling the funds.

14. *Previous PLH Discretionary Funding*—Indicate the amount and fiscal year of any previous PLH discretionary funds received for this project or route.

15. *Future Funding Needs*—Indicate the estimated future funding needs for the project, including anticipated requests for additional PLH discretionary funding, the items of work to be completed and projected scheduling.

16. *Project Area Map*—It is suggested that a readable map, clearly showing the proposed project and its relationship to the overall development of a highway route, as well as its relationship to the Federal public lands, be included. The map should also show any previously completed work on this highway route, if any, plus additional work being planned beyond the proposed project.

17. *Talking Points Briefing*—A one page talking points paper covering basic project information is also needed for use by the Office of the Secretary for the congressional notification process should a project be selected for funding. Each State's request for FY 1999 PLH discretionary funds must include a talking points paper. A sample paper is attached to this memorandum.

Division Office Responsibilities

In order to ensure that the submitted candidates are complete and properly prepared, the Division Office must:

1. Provide this information regarding project eligibility, selection criteria and submission requirements to the State transportation agency, and

2. Review all candidate applications submitted by the State prior to sending them to this office to ensure that they are complete and meet the above requirements.

We are requesting that candidate project submissions be received in Headquarters no later than *September 1, 1998. Projects received after this date may not receive full consideration.*

When sending in candidate projects, the States must understand that any qualified project may or may not be selected, and it may be necessary to supplement PLH funds with other Federal-aid and/or State funds to construct a section of highway which will be usable to the traveling public in as short a period as possible.

Any allocations in FY 1999 will be made on the assumption that proposed projects are viable and implementation schedules are realistic. Any unobligated balances remaining on September 15, 1999, will be withdrawn and used for funding future fiscal year requests.

If there are questions, please contact Mr. Larry Beidel (202–366–1564) of our Federal-Aid and Design Division.

Henry H. Rentz for Thomas J. Ptak

Attachment

Sample Talking Points Briefing for Sec. Slater

Note: These talking points will be used by the Office of the Secretary in making congressional notification contacts. Since some of the recipients of the calls may not be closely familiar with the highway program, layman's language should be used to the extent possible. Information contained in the talking points may be used by a member of Congress in issuing a press release announcing the discretionary allocation.

Public Lands Highways (PLH) Discretionary Funds

GRANTEE: *<List full name of State Highway Agency>*

REPRESENTATIVE/SENATOR: *<List full names>*

PROJECT: *<short name/description of project>*

This project provides for reconstructing ____ miles of US 1 in _____ County extending from State Route 2 intersection in Hometown to the County Road 3 in the vicinity of Smallville. Widening 2 feet on either side with improvements on horizontal alignment and installation of 1000 feet of guard rail are included in the project.

FHWA FUNDS: $xx,xxx,xxx. *<requested funds>*

Specify other source of funds (for ex: State, local, Forest highways, etc, if any, to supplement Federal funds

- This project will improve access to Navajo Indian Reservation and improve the local economy.
- This project is in Congressional district *<add number and member's name>*.
- This project is part of the second phase of a 5-year program to reconstruct a 30-mile section of Forest Road 11 (State Route 201) between Town A and Town B.
- The project will be advertised for construction in *<month/year>* and is scheduled for completion in *<month/year>*.

[FR Doc. 98–19563 Filed 7–22–98; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20923]

Coach USA, Inc.—Control—Kansas City Executive Coach, Inc. and Le Bus, Inc.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Coach USA, Inc. (Coach), a noncarrier, filed an application under 49 U.S.C. 14303 to acquire control of Kansas City Executive Coach, Inc. (Executive) and Le Bus, Inc. (Le Bus) (collectively, the Acquired Carriers), both motor carriers of passengers. Persons wishing to oppose the application must follow the rules under 49 CFR part 1182, subparts B and C. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments are due by September 8, 1998. Applicant may reply by September 22, 1998. If no comments are received by September 8, 1998, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB No. MC–F–20923 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–

0001. In addition, send one copy of comments to applicant's representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Coach currently controls 45 motor passenger carriers.[1] In this transaction, Coach seeks to acquire direct control of Executive[2] and Le Bus[3] by acquiring all of the outstanding stock of each of these carriers.

Applicant submits that there will be no transfer of federal or state operating authorities held by the Acquired Carriers. Following consummation of the control transactions, these carriers will continue operating in the same manner as before, and, according to applicant, granting the application will not reduce competitive options available to the traveling public. Applicant asserts that the Acquired Carriers do not compete with one another or, to any meaningful degree, with any other Coach-owned carrier. Applicant submits that each of the Acquired Carriers is relatively small and each faces substantial competition from other bus companies and from other transportation modes.

Applicant also submits that granting the application will produce substantial benefits, including interest cost savings from the restructuring of debt and reduced operating costs from Coach's enhanced volume purchasing power. Specifically, applicant claims that each carrier will benefit from the lower insurance premiums negotiated by Coach and from volume discounts for equipment and fuel. Applicant indicates that Coach will provide each carrier with centralized legal and accounting functions and coordinated purchasing services. In addition, applicant states that vehicle sharing arrangements will be facilitated through Coach to ensure maximum use and efficient operating of equipment and that, with Coach's assistance, coordinated driver training services will be provided, enabling each carrier to allocate driver resources in the most efficient manner possible. Applicant also states that the proposed transaction will benefit the employees of each carrier and that all collective bargaining agreements will be honored by Coach. Over the long term, Coach states that it will provide centralized marketing and reservation services for the bus firms that it controls, thereby further enhancing the benefits resulting from these control transactions.

Applicant certifies that: (1) neither carrier holds an unsatisfactory safety rating from the U.S. Department of Transportation; (2) each carrier has sufficient liability insurance; (3) neither carrier is domiciled in Mexico nor owned or controlled by persons of that country; and (4) approval of the transaction will not significantly affect either the quality of the human environment or the conservation of energy resources. Additional information may be obtained from Applicant's representatives.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we find consistent with the public interest, taking into consideration at least: (1) the effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and a procedural schedule will be adopted to reconsider the application. If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed vacated.

3. This decision will be effective on September 8, 1998, unless timely opposing comments are filed.

4. A copy of this notice will be served on the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: July 16, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–19680 Filed 7–22–98; 8:45 am]

BILLING CODE 4915–00–P 1

[1] In addition to the instant application, Coach has one other pending control application: *Coach USA, Inc.—Control—Blue Bird Coach Lines, Inc.; Butler Motor Transit, Inc.; God-About Tours, Inc.; P&S Transportation, Inc.; Pittsburgh Transportation Charter Services, Inc.; Syracuse and Oswego Coach Lines, Inc.; Tippett-Trovel, Inc., d/b/o Marie's Charter Bus Lines; Tucker Transportation Co., Inc.; and Utico-Rome Bus Co., Inc.*, STB Docket No. MC–F–20921 (STB served June 19, 1998), where Coach seeks to acquire control of nine additional motor passenger carriers.

[2] Executive is a Missouri corporation. It holds federally-issued operating authority in Docket MC–203805, as well as intrastate authority issued by the Missouri Department of Transportation. The carrier operates a fleet of 15 motorcoaches; employs approximately 35 drivers; and, together with affiliated companies, earned gross annual revenues in fiscal 1997 of approximately $12 million. Prior to the transfer of its stock into a voting trust, it had been owned by Mr. William J. George and William M. George.

[3] Le Bus is a Florida corporation. It holds federally-issued operating authority in Docket MC–210900. The carrier operates a fleet of approximately 40 motorcoaches; employs approximately 50 persons; and in fiscal 1997 earned gross revenues of $5.2 million.

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 15, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0008.

Regulation Parts: 31 CFR Parts 103.33.

Type of Review: Extension.

Title: Conditional Exceptions to the Application of 31 CFR 103.33(g).

Description: FinCEN Notice 1998–1 provides two conditional exceptions to the information requirements of 31 CFR 103.33(g) (the "Travel Rule"). Banks and brokers and dealers in securities would use the exceptions.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 5,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Reporting—3 minutes

Recordkeeping—15 minutes
Frequency of Response: On occasion.
Estimated Total Reporting/Recordkeeping Burden: 1,500 hours.
Clearance Officer: Lois K. Holland (202) 622–1563, Departmental Offices, Room 2110, 1425 New York Avenue, N.W., Washington, DC 20220.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19643 Filed 7–22–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 17, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: New.
Form Number: ATF F 2931.
Type of Review: New collection.
Title: Race and National Origin Identification.
Description: This form on its own and when combined with other Bureau tracking forms will allow the Bureau to determine its applicant/employee pool, and thereby, enhance its recruitment plan. It will also allow the Bureau to determine how its diversity/EEO efforts are progressing and to determine adverse impact on the employee selection process.
Respondents: Individuals or households.
Estimated Number of Respondents: 10,000.
Estimated Burden Hours Per Respondent: 3 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 500 hours.
Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19644 Filed 7–22–98; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

July 16, 1998.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before August 24, 1998 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0923.
Regulation Project Number: REG–209274–85 NPRM (formerly IA–31–85) and LR–124–84 Temporary.
Type of Review: Extension.
Title: Tax-Exempt Entity Leasing.
Description: These regulations provide guidance to persons executing lease agreements involving tax-exempt entities under 168(h) of the Internal Revenue Code. The regulations are necessary to implement Congressionally-enacted legislation and elections for certain previously tax-exempt organizations and certain tax-exempt controlled entities.
Respondents: Business or other for-profit, State, Local or Tribal Government.
Estimated Number of Respondents: 4,000.
Estimated Burden Hours Per Respondent: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 2,000 hours.
OMB Number: 1545–0982.
Regulation Project Number: LR–77–86 Temporary (TD 8124).
Type of Review: Extension.
Title: Certain Elections Under the Tax Reform Act of 1986.
Description: These regulations establish various elections with respect to which immediate interim guidance on the time and manner of making the election is necessary. These regulations enable taxpayers to take advantage of the benefits of various Code provisions.
Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions, Farms, State, Local or Tribal Government.
Estimated Number of Respondents: 114,710.
Estimated Burden Hours Per Respondent: 15 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 28,678 hours.
OMB Number: 1545–0985.
Regulation Project Number: PS–128–86, PS–127–86, and PS–73–88 Final.
Type of Review: Extension.
Title: Generation-Skipping Transfer Tax.
Description: This regulation provides rules relating to the effective date, return requirements, definitions, and certain special rules covering the generation-skipping transfer tax. The information required by the regulation will require individuals and/or fiduciaries to report information on Forms 706NA, 706, 706GS(D), 706GS(D–1), 706GS(T), 709 and 843 in connection with the generation-skipping transfer tax. The information will facilitate the assessment of the tax and taxpayer examinations.
Respondents: Individuals or households, Business or other for-profit.
Estimated Number of Respondents/Recordkeepers: 7,500.
Estimated Burden Hours Per Respondent/Recordkeeper: 30 minutes.
Frequency of Response: On occasion, Other (Form 706 is filed within 9 months after the taxpayer dies).
Estimated Total Reporting/Recordkeeping Burden: 3,750 hours.
OMB Number: 1545–1051.
Regulation Project Number: INTL–29–91 Final.
Type of Review: Extension.
Title: Computation and Characterization of Income and Earnings and Profits under the Dollar Approximate Separate Transactions Method of Accounting (DASTM).
Description: For taxable years after the final regulations are effective, taxpayers operating in hyper inflationary currencies must use the U.S. dollar as their functional currency and compute

income using the dollar approximate separate transaction method (DASTM). Small taxpayers may elect an alternate method by which to compute income or loss. For prior taxable years in which income was computed using the profit and loss method, taxpayers may elect to recompute their income using DASTM.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 700.

Estimated Burden Hours Per Respondent: 1 hour, 26 minutes.

Frequency of Response: Other (one-time election).

Estimated Total Reporting Burden: 1,000 hours.

OMB Number: 1545–1056.

Regulation Project Number: REG–209020–86 (formerly INTL–61–86) NPRM and Temporary.

Type of Review: Extension.

Title: Foreign Tax Credit; Notification and Adjustment Due to Foreign Tax Redeterminations.

Description: Section 905(c) requires notification and redetermination of a taxpayer's United States tax liability to account for the effect of a foreign tax redetermination, in certain cases. The reporting requirements will enable the Internal Revenue Service to recompute a taxpayer's United States tax liability.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 10,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 98–19645 Filed 7–22–98; 8:45 am]

BILLING CODE 4810–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–89–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, PS–89–91 (TD 8622), Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer (§§ 52.4682–2(b), 52.4682–2(d), 52.4682–5(d), and 52.4682–5(f)).

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Exports of Chemicals That Deplete the Ozone Layer; Special Rules for Certain Medical Uses of Chemicals That Deplete the Ozone Layer.

OMB Number: 1545–1361.

Regulation Project Number: PS–89–91.

Abstract: This regulation provides reporting and recordkeeping rules relating to taxes imposed on exports of ozone-depleting chemicals (ODCs), taxes imposed on ODCs used as medical sterilants or propellants in metered-dose inhalers, and floor stocks taxes on ODCs. The rules affect persons who manufacture, import, export, sell, or use ODCs.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Recordkeepers: 705.

Estimated Time Per Recordkeeper: 12 minutes.

Estimated Total Annual Recordkeeping Burden Hours: 141.

Estimated Number of Respondents: 600.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Reporting Burden Hours: 60.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 20, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19683 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–276–76]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–276–76 (TD 8586), Treatment of Gain From Disposition of Certain Natural Resource Recapture Property (§§ 1.1254–1(c)(3) and 1.1254–5(d)(2)).

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Treatment of Gain From Disposition of Certain Natural Resource Recapture Property.

OMB Number: 1545–1352.

Regulation Project Number: PS–276–76.

Abstract: This regulation prescribes rules for determining the tax treatment of gain from the disposition of natural resource recapture property in accordance with Internal Revenue Code section 1254. Gain is treated as ordinary income in an amount equal to the intangible drilling and development costs and depletion deductions taken with respect to the property. The information that taxpayers are required to retain will be used by the IRS to determine whether a taxpayer has properly characterized gain on the disposition of section 1254 property.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 400.

Estimated Time Per Respondent: 5 hours.

Estimated Total Annual Burden Hours: 2,000.

The following paragraph applies to all of the collections of information covered by this notice:

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

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

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 20, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer

[FR Doc. 98–19684 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–88–90]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), 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 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–88–90 (TD 8530), Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case (§ 1.382–9).

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Limitation on Net Operating Loss Carryforwards and Certain Built-In Losses Following Ownership Change; Special Rule for Value of a Loss Corporation Under the Jurisdiction of a Court in a Title 11 Case.

OMB Number: 1545–1324.

Regulation Project Number: CO–88–90.

Abstract: This regulation provides guidance on determining the value of a loss corporation following an ownership change to which section 382(l)(6) if the Internal Revenue Code applies. Under Code sections 382 and 383, the value of the loss corporation, together with certain other factors, determines the rate at which certain pre-change tax attributes may be used to offset post-change income and tax liability.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,250.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 813.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19685 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the Statistics of Income (SOI) Corporate Survey

AGENCY: Internal Revenue Service (IRS), 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 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Statistics of Income (SOI) Corporate Survey.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the survey should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Statistics of Income (SOI) Corporate Survey.

OMB Number: 1545–1351.

Abstract: The SOI Corporate Survey is a yearly self-administered mail survey sent to a small select group of the very largest U.S. corporations. The survey is voluntary and requests specific line item tax return data. The survey data are used to supplement the SOI corporate files in order to produce corporate advance tax data estimates. Advance tax data has been requested by the Bureau of Economic Analysis in the Department of the Commerce, the Office of Tax Analysis in the Department of the Treasury, and the Joint Committee on Taxation in the U.S. Congress for tax analysis purposes.

Current Actions: There are no changes being made to the survey at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 100.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 50.

The following paragraph applies to all of the collections of information covered by this notice:

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

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

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19686 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–208985–89]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), 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 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG–208985–89, Taxable Year of Certain Foreign Corporations Beginning After July 10, 1989 (§§ 1.563–3, 1.898–3 and 1.898–4).

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Taxable Year of Certain Foreign Corporations Beginning After July 10, 1989.

OMB Number: 1545–1355.

Regulation Project Number: REG–208985–89 (formerly INTL–848–89).

Abstract: This regulation provides guidance concerning Internal Revenue Code section 898, which seeks to eliminate the deferral of income and, therefore, the understatement in income, by United States shareholders

of certain controlled foreign corporations and foreign personal holding companies. The elimination of deferral is accomplished by requiring a specified foreign corporation to conform its taxable year to the majority U.S. shareholder year. The information collected will be used by the IRS to assess the reported tax and determine whether taxpayers have complied with Code section 898.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 700.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 700.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 20, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19687 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request For Forms 9455 and 9456

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 9455, I.R.S. Taxpayer Education Programs, and Form 9456, I.R.S. Taxpayer Education Programs 2nd Notice.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the forms should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Form 9455, I.R.S. Taxpayer Education Programs, and Form 9456, I.R.S. Taxpayer Education Programs 2nd Notice.

OMB Number: 1545–1336.

Form Number: Forms 9455 and 9456.

Abstract: The information collected will be used to estimate the number of individuals who teach IRS' Educational Programs, and the number of students who are exposed to the Understanding Taxes (UT) High School, UT–8th Grade, UT-Post Secondary, and Small Business Tax Education Programs during the course of a year. It will also be used to justify the continued use of these programs. This effort is in line with IRS initiatives on reducing taxpayer burden and Compliance 2000 initiatives to encourage voluntary compliance with the tax laws.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Responses: 120,800.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 20,137.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19688 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–102–88]

Proposed Collection; Comment Request For Regulation Project

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

Currently, the IRS is soliciting comments concerning an existing final regulation, PS–102–88 (TD 8612), Income, Gift and Estate Tax (§§ 20.2056A–3, 20.2056A–4, and 20.2056A–10).

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Income, Gift and Estate Tax.

OMB Number: 1545–1360.

Regulation Project Number: PS–102–88.

Abstract: This regulation concerns the availability of the gift and estate tax marital deduction when the donee spouse or the surviving spouse is not a United States citizen. The regulation provides guidance to individuals or fiduciaries: (1) for making a qualified domestic trust election on the estate tax return of a decedent whose surviving spouse is not a United States citizen in order that the estate may obtain the marital deduction, and (2) for filing the annual returns that such an election may require.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,300.

Estimated Time Per Respondent: 2 hours, 40 minutes.

Estimated Total Annual Burden Hours: 6,150.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 20, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19689 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040–C

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040–C, U.S. Departing Alien Income Tax Return.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Departing Alien Income Tax Return

OMB Number: 1545–0086.

Form Number: 1040–C.

Abstract: Form 1040–C reflects Internal Revenue Code section 6851 and regulation sections 1.6851–1 and 1.6851–2. The form is used by aliens departing the U.S. to report income received or expected to be received for the entire tax year. The information collected is used to insure that the departing alien has no outstanding U.S. tax liability.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 5 hr., 41 min.

Estimated Total Annual Burden Hours: 11,352.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19690 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–L

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–L, U.S. Life Insurance Company Income Tax Return.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Life Insurance Company Income Tax Return

OMB Number: 1545–0128

Form Number: 1120–L

Abstract: Life insurance companies are required to file an annual return of income and compute and pay the tax due. The data is used to insure that the companies have correctly reported taxable income and paid the correct tax.

Current Actions: Form 1120–L Lines 11 and 12 were added to Schedule K to accommodate changes related to the qualified zone academy bond credit (new Code section 1397E). The credit was added by section 226(a) of the Taxpayer Relief Act of 1997 (P.L. 105–34), and is figured on Form 8860.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,440.

Estimated Time Per Respondent: 159 hr., 52 min.

Estimated Total Annual Burden Hours: 390,058.

The following paragraph applies to all of the collections of information covered by this notice:

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

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

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19691 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1041–ES

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1041–ES, Estimated Income Tax for Estates and Trusts.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Estimated Income Tax for Estates and Trusts.

OMB Number: 1545–0971.

Form Number: 1041–ES.

Abstract: Internal Revenue Code section 6654(l) imposes a penalty on trusts, and in certain circumstances, a decedent's estate, for underpayment of estimated tax. Form 1041–ES is used by the fiduciary to make the estimated tax payments. The form provides the IRS with information to give estates and trusts proper credit for estimated tax payments.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,200,000.

Estimated Time Per Respondent: 2 hr., 38 min.

Estimated Total Annual Burden Hours: 3,161,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19692 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–NR

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453-NR, U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing.

OMB Number: 1545–1274.

Form Number: 8453–NR.

Abstract: Form 8453-NR is used to secure taxpayer signatures and declarations in conjunction with the Magnetic Media Filing Program. This form, together with the electronic transmission, will comprise the taxpayer's income tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 15 min.

Estimated Total Annual Burden Hours: 1,250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19693 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5498

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5498, IRA Contribution Information.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: IRA Contribution Information

OMB Number: 1545–0747.

Form Number: 5498.

Abstract: Form 5498 is used by trustees and issuers to report contributions to, and the fair market value of, an individual retirement arrangement (IRA). The information on

the form will be used by the IRS to verify compliance with the reporting rules under regulation section 1.408–5 and to verify that the participant in the IRA has made the contribution for which he or she is taking a deduction.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 68,947,290.

Estimated Time Per Response: 11 min.

Estimated Total Annual Burden Hours: 12,640,337.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19694 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8847 and Schedule A (Form 8847)

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8847, Credit for Contributions to Selected Community Development Corporations, and Schedule A (Form 8847), Receipt, Designation and Certification of Qualified Contribution to a Selected Community Development Corporation (CDC).

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Credit for Contributions to Selected Community Development Corporations (Form 8847), and Receipt, Designation and Certification of Qualified Contribution to a Selected Community Development Corporation (CDC) (Schedule A).

OMB Number: 1545–1416.

Form Number: 8847 and Schedule A (Form 8847).

Abstract: Form 8847 is used to claim a credit for qualified contributions to a selected community development corporation (CDC). The CDC issues Schedule A (Form 8847), with Part I completed, to the contributor to verify the contribution and to show the amount designated as eligible for the credit. The contributor certifies the contribution made in Part II of Schedule A. The IRS uses the information reported on the forms to ensure that the credit is correctly computed.

Current Actions: Form 8847.

Line 6c was added for the child tax credit, and line 6d was added for the education credits. These new credits were added to the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 5,000.

Estimated Time Per Respondent: 10 hr., 20 min.

Estimated Total Annual Burden Hours: 51,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19695 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8835

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8835, Renewable Electricity Production Credit.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Renewable Electricity Production Credit.

OMB Number: 1545–1362.

Form Number: 8835.

Abstract: Form 8835 is used to claim the renewable electricity production credit. The credit is allowed for the sale of electricity produced in the United States or U.S. possessions from qualified energy resources. The IRS uses the information reported on the form to ensure that the credit is correctly computed.

Current Actions: Form 8835.

Line 16c was added for the child tax credit and line 16d was added for the education credits. These new credits were added to the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 70.

Estimated Time Per Respondent: 11 hr., 6 min.

Estimated Total Annual Burden Hours: 777.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19696 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1040NR–EZ

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1040NR–EZ, U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents.

DATES: Written comments should be received on or before September 21, 1998, to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents.

OMB Number: 1545–1468.

Form Number: 1040NR–EZ.

Abstract: This form is used by certain nonresident aliens with simple tax situations and with no dependents to report their income subject to tax and compute the correct tax liability. The information on the return is used to determine whether income, deductions, credits, payments, etc. are correctly figured.

Current Actions: Form 1040NR–EZ.

Line 8 was added to reflect the new student loan interest deduction. This deduction was created by Internal Revenue Code section 221, which was added by section 202(a) of the Taxpayer Relief Act of 1997. The deduction will be computed on a new worksheet in the instructions.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 100,000.

Estimated Time Per Respondent: 4 hr., 27 min.

Estimated Total Annual Burden Hours: 445,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19697 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8453–OL

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8453–OL, U.S. Individual Income Tax Declaration for On-Line Filing.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Individual Income Tax Declaration for On-Line Filing.

OMB Number: 1545–1397.

Form Number: 8453–OL.

Abstract: Form 8453–OL is used in conjunction with the On-Line Electronic Filing Program. The data on the form is used to verify the electronic portion of the tax return, allow for direct deposit of any refund, provide consent for the IRS to disclose the status of the return to the on-line service provider and/or transmitter, and obtain the required signatures. Form 8453–OL, together with the electronic transmission, comprises the taxpayer's tax return.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 15 min.

Estimated Total Annual Burden Hours: 12,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 16, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19698 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 3800

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 3800, General Business Credit.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: General Business Credit.

OMB Number: 1545–0895.

Form Number: 3800.

Abstract: Internal Revenue Code section 38 permits taxpayers to reduce their income tax liability by the amount of their general business credit, which is an aggregation of their investment credit, work opportunity credit, welfare-to-work credit, alcohol fuel credit, research credit, low-income housing credit, disabled access credit, enhanced oil recovery credit, etc. Form 3800 is used to figure the correct credit.

Current Actions: Form 3800.

Line 1o was added for general credits from an electing large partnership, line 10c was added for the child tax credit, and line 10d was added for the education credits. These new credits were added to the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms, and individuals.

Estimated Number of Respondents: 247,500.

Estimated Time Per Respondent: 15 hr., 53 min.

Estimated Total Annual Burden Hours: 3,932,775.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19699 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8826

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8826, isabled Access Credit.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Disabled Access Credit.

OMB Number: 1545–1205.

Form Number: 8826.

Abstract: Internal Revenue Code section 44 allows eligible small businesses to claim a nonrefundable income tax credit of 50% of the amount of eligible access expenditures for any tax year that exceed $250 but do not exceed $10,250. Form 8826 figures the credit and the tax liability limit.

Current Actions: Form 8826.

Line 10c was added for the child tax credit and line 10d was added for the education credits. These new credits were added to the Internal Revenue Code by the Taxpayer Relief Act of 1997.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms, and individuals.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 7 hr., 27 min.

Estimated Total Annual Burden Hours: 372,500.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 14, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19700 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 990 and Schedule A

(Form 990)

AGENCY: Internal Revenue Service (IRS), 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,

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 990, Return of Organization Exempt From Income Tax Under Section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust and Schedule A, Organization Exempt Under Section 501(c)(3) (Except Private Foundation), and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) nonexempt charitable trust.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224. 2

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return of Organization Exempt From Income Tax Under Section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust (Form 990), and Organization Exempt Under Section 501(c)(3) (Except Private Foundation), and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) nonexempt charitable trust (Schedule A).

OMB Number: 1545–0047.

Form Number: 990 and Schedule A (Form 990).

Abstract: Form 990 is needed to determine that Code section 501(a) tax-exempt organizations fulfill the operating conditions of their tax exemption. Schedule A (Form 990) is used to elicit special information from section 501(c)(3) organizations. IRS uses the information from these forms to determine if the filers are operating within the rules of their exemption.

Current Actions: There are no changes being made to the forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Not-for-profit institutions.

Estimated Number of Respondents: 327,953.

Estimated Time Per Respondent: 160 hr., 47 min.

Estimated Total Annual Burden Hours: 52,731,933.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of 4 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.

Approved: July 14, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19701 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8610

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8610, Annual Low-Income Housing Credit Agencies Report.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Annual Low-Income Housing Credit Agencies Report.

OMB Number: 1545–0990.

Form Number: 8610.

Abstract: State or local housing credit agencies are required by Internal Revenue Code section 42(l)(3) to report annually the amount of housing credits allocated to buildings qualifying for the low-income housing credit on Form 8609, Low-Income Housing Credit Allocation Certification. Form 8610 is used as a transmittal for Forms 8609. The IRS uses the amounts reported on Form 8610 to ensure that the housing credit agencies do not exceed their allocation.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: State, local or tribal governments.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 7 hr., 53 min.

Estimated Total Annual Burden Hours: 394.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 15, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19702 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 6627

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 6627, Environmental Taxes.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Environmental Taxes.

OMB Number: 1545–0245.

Form Number: 6627.

Abstract: Internal Revenue Code sections 4681 and 4682 impose a tax on ozone-depleting chemicals (ODCs) and on imported products containing ODCs. Form 6627 is used to compute the environmental tax on ODCs and on imported products that use ODCs as materials in the manufacture or production of the product. It is also used to compute the floor stocks tax on ODCs.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and individuals.

Estimated Number of Respondents: 1,610.

Estimated Time Per Respondent: 3 hr., 13 min.

Estimated Total Annual Burden Hours: 5,172.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19703 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 990–C

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 990–C, Farmers' Cooperative Association Income Tax Return.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Farmers' Cooperative Association Income Tax Return.

OMB Number: 1545–0051.

Form Number: 990–C.

Abstract: Form 990–C is used by farmers' cooperatives to report the tax imposed by Internal Revenue Code section 1381. The IRS uses the information on the form to determine whether the cooperative has correctly computed and reported its income tax liability.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 5,600.

Estimated Time Per Respondent: 148 hr., 13 min.

Estimated Total Annual Burden Hours: 830,032.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to

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

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19704 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–RIC

AGENCY: Internal Revenue Service (IRS), 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, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–RIC, U.S. Income Tax Return for Regulated Investment Companies.

DATES: Written comments should be received on or before September 21, 1998 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622–3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Income Tax Return for Regulated Investment Companies.

OMB Number: 1545–1010.

Form Number: 1120–RIC.

Abstract: Internal Revenue Code sections 851 through 855 provide rules for the taxation of a domestic corporation that meets certain requirements and elects to be taxed as a regulated investment company. Form 1120–RIC is filed by a domestic corporation making such an election in order to report its income and deductions and to compute its tax liability. The IRS uses the information on Form 1120–RIC to determine whether the corporation's income, deductions, credits, and tax have been correctly reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 3,277.

Estimated Time Per Respondent: 117 hr., 17 min.

Estimated Total Annual Burden Hours: 384,327.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

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, utility, and clarity of the information to be collected; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 17, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–19705 Filed 7–22–98; 8:45 am]

BILLING CODE 4830–01–U

UNITED STATES ENRICHMENT CORPORATION

Sunshine Act Meeting

AGENCY: United States Enrichment Corporation.

SUBJECT: Board of Directors.

TIME AND DATE: The time of the meeting previously scheduled and noticed for Wednesday, July 22, 1998, has been changed from 5:00 p.m. to 1:00 p.m.

PLACE: USEC Corporate Headquarters, 6903 Rockledge Drive, Bethesda, MD 20817.

STATUS: The meeting will be closed to the public.

MATTER TO BE CONSIDERED: Privatization of the Corporation.

CONTACT PERSON FOR MORE INFORMATION: Elizabeth Stuckle at 301/564–3399.

Dated: July 20, 1998.

Carol K. DiSibio,

Clerk to the Board.

[FR Doc. 98–19774 Filed 7–20–98; 4:51 pm]

BILLING CODE 8720–01–M

Corrections

Federal Register
Vol. 63, No. 141
Thursday, July 23, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

RIN: 3206-A129

Hazardous Duty Pay

Correction

In proposed rule document 98–17318 beginning on page 35543 in the issue of Tuesday, June 30, 1998, make the following corrections:

On page 35543, in the first column:

1. Under **SUMMARY**, in the sixth line "at a worksite a more than" should read "at a worksite more than".

2. Under **ADDRESSES**, in the seventh line "1300 E Street" should read "1900 E Street".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ACE-21]

Proposed Establishment of Class E Airspace; Davenport, IA

Correction

In proposed rule document 98–17224, beginning on page 35166 in the issue of Monday, June 29, 1998, the document heading is corrected to read as above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 97-086]

RIN 2115-AA98

Anchorage Grounds; Hudson River, Hyde Park, NY

Correction

In proposed rule document 98–18396 beginning on page 37297, in the issue of Friday, July 10, 1998, make the following correction:

§ 110.155 [Corrected]

On page 37299, in the first column, in paragraph (c)(6), in the third line, "staring" should read "starting".

BILLING CODE 1505-01-D

federal register

Thursday
July 23, 1998

Part II

Environmental Protection Agency

40 CFR Part 86

Control of Air Pollution From New Motor Vehicles; Compliance Programs for New Light-Duty Vehicles and Light-Duty Trucks; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–6126–9]

RIN 2060–AH06

Control of Air Pollution From New Motor Vehicles; Compliance Programs for New Light-Duty Vehicles and Light-Duty Trucks

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to revise the emissions compliance procedures for light-duty vehicles and light-duty trucks. The Environmental Protection Agency (referred to hereafter as "EPA" or "the Agency") is proposing a new compliance assurance program (referred to as "CAP 2000"). CAP 2000 would simplify and streamline the current procedures for pre-production certification of new motor vehicles. Under this proposal, the certification program would provide the same environmental benefits as the current procedures while significantly reducing the certification cost for manufacturers, and would give manufacturers more control of production timing. EPA is also proposing that manufacturers test in-use motor vehicles to monitor compliance with emission standards. Manufacturers would test samples of in-use vehicles when they are approximately one and four years old. These test data would be used to improve the certification process to predict in-use compliance and to determine the need for further action by the Agency or the manufacturer to address any in-use compliance problems. EPA proposes that CAP 2000 be implemented beginning with model year (MY) 2001 vehicles. Manufacturers would be allowed to voluntarily opt-in to the CAP 2000 procedures beginning with the 2000 model year. EPA estimates that overall, manufacturers would save about $55 million dollars a year as a result of today's proposal.

DATES: Written comments on this NPRM must be submitted on or before September 8, 1998. A public hearing will be held on August 10, 1998. Requests to present oral testimony must be received on or before August 3, 1998. If EPA receives no requests to present oral testimony by this date, the hearing will be cancelled.

ADDRESSES: Written comments should be submitted (in duplicate, if possible,) to: EPA Air & Radiation Docket, Attn Docket # A–96–50, Room M–1500 (Mail Code 6102), 401 M. Street, SW., Washington, DC 20460. Materials relevant to this rulemaking are contained in Docket No. A–96–50 and may be viewed in room M–1500 between 8:00 a.m. and 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the facsimile number is (202)260–4400. A reasonable fee may be charged by EPA for copying docket material.

The public hearing will be held at the Holiday Inn North Campus, Ann Arbor, MI. The hearing will begin at 10:00 a.m. and continue until all testimony has been presented.

FOR FURTHER INFORMATION CONTACT: Linda Hormes, Vehicle Programs and Compliance Division, US EPA, 2000 Traverwood, Ann Arbor Michigan 48105, telephone (734) 214–4502, E-mail: hormes.linda@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which manufacture and sell motor vehicles in the United States. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	New motor vehicle manufacturers.

This table is not intended to be exhaustive but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities the EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your product is regulated by this action, you should carefully examine the applicability criteria in § 86.1801–01 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular product, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Obtaining Copies of the Regulatory Language

Hard copies (paper) and electronic copies (on 3.5" diskettes) of the proposed regulatory language may be obtained free of charge by visiting, writing, or calling the contact person in the **FOR FURTHER INFORMATION CONTACT** section at US Environmental Protection Agency's National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105. Please direct all requests to Linda Hormes, telephone (734) 214–4502. E-mail requests may be sent to hormes.linda@epa.gov.

Electronic copies of the proposed regulatory language are also available through EPA's web page. See "Electronic Availability" below for access instructions.

Electronic Availability

The preamble and regulatory language are available electronically from both the EPA internet Web site and the Office of Mobile Source's Web site. This service is free of charge, except for any cost you already incur for internet connectivity. An electronic version of the Preamble will be made available on the day of publication on the EPA Web site listed below:

http://www.epa.gov/docs/fedrgstr/EPA–AIR/

(either select desired date or use "Search" feature) The EPA Office of Mobile Sources will also publish the preamble and regulatory language on its Web site listed below:

http://www.epa.gov/OMSWWW/

(look in "What's New" or under the specific rulemaking topic)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc. may occur.

Table of Contents

I. Introduction and Background

A. Overview of Current Compliance Programs for Light-Duty Vehicles and Light-Duty Trucks

Three programs are currently in place to ensure that light-duty vehicles and light-duty trucks comply with mandated emission standards: certification, assembly line testing (known as Selective Enforcement Audits or SEAs) and recall. EPA also oversees the testing and calculation processes for fuel economy programs that include labeling, gas guzzler tax, and Corporate Average Fuel Economy (CAFE). The following discussion briefly summarizes the current programs.

1. Certification

Under the Clean Air Act (Section 203(a)(1)), a motor vehicle manufacturer must obtain a certificate of conformity indicating compliance with emission standards prior to selling new cars in the United States. Issuance of a certificate is based on a showing that the new motor vehicles have been designed to meet emission standards for their useful lives. A manufacturer submits information to EPA, including test data demonstrating that its new motor vehicles will comply with the applicable emission standards. After reviewing this information for completeness and compliance with the standards, EPA issues a certificate of conformity. This must occur prior to the sale of the new motor vehicles, necessitating the use of pre-production vehicles to demonstrate compliance. A new certificate must be obtained each model year.

Since it is a pre-production program, manufacturers must use predictive tools to demonstrate that a vehicle will conform to the applicable emission standards. The certification program accomplishes this by assessing the emissions control deterioration characteristics of the vehicle ("durability") and applying this assessment to emissions data from low mileage, production-intent vehicles, that is, vehicles assembled as closely as possible to those which are planned to be produced. This is done specifically for each "engine family" which is a group of vehicles that have engines and emission control systems with similar operational and emission characteristics, as defined in regulations. A separate certificate of conformity must be obtained for each engine family. Within each engine family, the manufacturer must determine the emission deterioration factors (DFs) by using either bench aging techniques or by operating prototype vehicles for the useful life mileage and testing at periodic intervals. The manufacturer must then test a number of production-intent vehicles with stabilized mileages (usually 4,000 miles) for each engine family. These low mileage test vehicles are called emission-data vehicles (EDVs). The test results from the emission-data vehicles are adjusted by the DFs to project useful life emission levels (called "certification levels"). The useful lives of motor vehicles for emission compliance purposes are defined in Section 202(d) of the Clean Air Act and are implemented through the regulations. (For example, for light-duty vehicles covered by this proposal, full useful life is 100,000 miles or 10 years.) If the certification levels are below the applicable standard and the manufacturer has demonstrated that the vehicle meets all emission requirements, a Certificate of Conformity can be issued.

2. Selective Enforcement Audit (SEA)

Section 206(b) of the Clean Air Act authorizes EPA to conduct testing of new motor vehicles or engines at the time they are produced to determine whether they comply with the applicable emission standards. This testing may be conducted by the Agency or, under conditions specified by the Agency, by the manufacturer. If the Agency determines based on this testing that the vehicles or engines do not comply with those regulations, the Agency may suspend or revoke the applicable certificate.

The SEA program accomplishes two goals. First, it provides the Agency with an early opportunity to evaluate the emissions performance of actual production vehicles for which certificates have been issued. In the case of classes of vehicles which are found to be high emitters, this allows EPA to obtain repair of vehicles already in owners' hands and to ensure that vehicles subsequently produced comply with applicable requirements. Second, EPA's ability to test new vehicles and to revoke or suspend the certificate encourages manufacturers to conduct their own testing of new vehicles. This allows manufacturers to identify and correct high emitting classes of vehicles early in their production life, providing an opportunity to prevent excessive emissions during the life of the vehicles.

3. Recall

Section 207(c) of the Clean Air Act provides that if the Administrator determines that a class or category of vehicles or engines, although properly maintained and used, does not conform with the applicable regulations when in actual use throughout its useful life, the manufacturer is required to submit a plan to remedy the non-conformity at the manufacturer's expense. This remedy is available to the owners of all vehicles of the relevant class regardless of the age or mileage of the vehicles.

EPA tests in-use vehicles under the current recall program and uses the resultant data to evaluate the emission performance of vehicles in actual use. As the evaluation is based on vehicles which have experienced real life operation by actual owners over a number of years, it provides the Agency and the industry with a particularly accurate picture of the emission performance of properly maintained and used vehicles. In appropriate cases EPA requires manufacturers to repair non-complying classes. In many cases a manufacturer will voluntarily recall vehicles if problems are discovered through EPA's test program.

The recall program accomplishes its emission reduction goals not only through the repair of non-conforming vehicles classes, but also through the deterrent effect created by the substantial expense to manufacturers associated with conducting a recall. The potential expense associated with vehicles which demonstrate inadequate in-use emissions durability encourages manufacturers to design and build vehicles which are durable in actual use, thus addressing the real world emissions of the motor vehicle fleet.

4. Fuel Economy

EPA shares responsibilities with three other Federal agencies in the conduct of three fuel economy programs. The three programs are as follows:

a. Corporate Average Fuel Economy (CAFE) Standards. Manufacturers of passenger cars and light-duty trucks must meet fleet average fuel economy standards for the vehicles sold in the United States. Penalties are assessed to manufacturers that do not meet the standards. (Penalties established by law (49 CFR 578.6(h)) are currently $5.50 per vehicle sold for each 0.1 mpg the manufacturer's CAFE is under the standard.) Congress and the National Highway Traffic Safety Administration (NHTSA) of the Department of Transportation set the CAFE standards. NHTSA assesses any penalties associated with CAFE noncompliance.

EPA is responsible for establishing test procedures, collecting data, and confirming manufacturers' averages.

b. Fuel Economy Labels and the Gas Mileage Guide. All new passenger cars and light-duty trucks sold in the United States are required at the time of sale to have a window label attached showing the vehicle's estimated fuel economy. EPA, in conjunction with the Department of Energy (DOE), specifies the label design. EPA establishes the testing and calculation procedures, and approves the fuel economy values placed on the labels. At the beginning of each model year (usually in September), EPA compiles all available label values into a fuel economy listing which is given to DOE. DOE, in turn, publishes the information in the *Gas Mileage Guide* which is available at all new car dealerships.

c. Gas Guzzler Tax. The Energy Tax Act of 1978 established a tax schedule for passenger cars that do not achieve certain fuel economy standards. EPA establishes the testing and calculation procedures and reports the fuel economy values to the Internal Revenue Service for tax collection purposes.

In addition to the above established programs, EPA retains the most extensive and complete database in the U.S. on the fuel economy performance of vehicles sold in this country. Using this database, EPA publishes a report that analyzes fuel economy trends related to fleet fuel efficiency going back to the 1975 model year. NHTSA also uses this database to publish its annual report to Congress on fuel economy performance.

B. Background of Proposal

Beginning in the late 1970's, EPA began to streamline various aspects of the light-duty vehicle (LDV) and light-duty truck (LDT) compliance programs. In particular, the certification program has undergone changes leading to reduced testing and reporting burdens, and EPA has also allowed manufacturers to make many of the initial decisions in the certification process, such as selection of vehicles for testing. Because EPA designed adequate safeguards in the review process, preserved all its discretion in the final certification decision, retained a strong in-use recall program, and pursued civil fines against manufacturers who violated the streamlined certification process, these streamlining efforts have not reduced the effectiveness of the standards. Stabilized emission standards during the 1980's also minimized both Agency and manufacturer burdens, as well as decreased the likelihood of in-use noncompliance. However, following the Clean Air Act Amendments of 1990, new standards and test procedures have once again increased Agency and manufacturer compliance burdens, as well as the risk of more in-use noncompliance with these new standards.

EPA believes that it is now appropriate to redesign the LDV and LDT compliance programs to provide greater assurance of in-use compliance and to reduce overall compliance program burdens for both EPA and manufacturers. EPA believes that overall burdens can be reduced by redesigning the program around current industry practices and technology rather than retaining the procedures designed for the industry and products of the 1970's. More importantly, EPA believes that a compliance program design that integrates improved pre-production compliance procedures with a new emphasis on checking real in-use performance would result in lower in-use emissions, the ultimate goal of the federal motor vehicle compliance program.

In May of 1995, EPA met with manufacturers to discuss ways to improve the mobile source programs for light-duty vehicles and light-duty trucks. Manufacturers expressed concern about the burdens imposed by EPA compliance programs, particularly the certification program. At the same time, EPA expressed a desire to focus on improving in-use emission performance. EPA agreed to investigate the possibility of reducing certification burdens if some of the savings would be redirected toward the goal of improving the emission control performance of in-use vehicles.

EPA proceeded with creating options for a redesigned LDV and LDT compliance process. In September, 1995, EPA staff met with their counterparts in the California Air Resources Board (California ARB) to discuss some ideas for redesigning aspects of their respective vehicle compliance programs that would ease some of the administrative burdens to both the agencies and industry while improving in-use emission performance.

Subsequently, EPA and California ARB met with manufacturers to discuss ways to revise the current mobile source compliance programs for light-duty vehicles and light-duty trucks. All parties generally agreed that in-use emissions performance could be improved by shifting the focus of compliance assessments towards in-use testing, while potentially reducing overall compliance demonstration burdens. In February of 1996, EPA, California ARB, and 18 vehicle manufacturers acknowledged these goals by signing a statement of Principles for Compliance Program Regulatory and Emissions Improvement. These principles of understanding are the guiding principles for this proposal. Specifically the principles of understanding state:

* * * the Signatories commit to working together to achieve effective regulatory streamlining of LDV compliance programs, including reduction of process time and test complexity, with the goal of more optimal application of the resources spent by both government and industry to better focus on in-use compliance with emission standards. Among the alternatives would be consideration of more optimal allocation between prototype certification and assembly line audit testing in preference for in-use performance evaluation and compliance testing. EPA will also seek to design incentives into the compliance program mix which reward manufacturers who do not have an in-use compliance problem by requiring less compliance testing burdens on them. Overall, the primary guiding principle will be to encourage lower in-use emissions.

An additional factor leading to today's proposal was EPA's involvement in an advisory committee on mobile source needs, established under the Federal Advisory Committee Act (FACA) (5 U.S.C. Appendix § 1 *et seq.*) In July 1995, a Mobile Source Technical Review Subcommittee was convened, and in December 1995, the Subcommittee formed a Compliance Reinvention Working Group whose specific charge was to provide to the Mobile Source Subcommittee recommendations for re-engineering the current light-duty vehicle and light-duty truck compliance programs. Members of the working group included EPA, California ARB, and vehicle manufacturers. Consistent with the goals of the working group, recommendations were made to the Subcommittee on the design of a new compliance program that would achieve the following:

—Redirect manufacturer and Agency efforts toward in-use compliance,
—Give manufacturers more control of certification timing, and
—Maintain the integrity of the compliance and fuel economy programs.

On October 9, 1996, the working group presented the final results of their discussions to the Mobile Source

Technical Review Subcommittee.[1] The working group report discussed many of the detailed issues involved in reengineering the vehicle compliance process. EPA, California ARB, and the industry agreed on a number of these details, although some differences still remained. These differences are discussed in the various preamble sections which follow.

In keeping with the statement of principles, EPA's CAP 2000 proposal simplifies and streamlines considerably the pre-production certification process and requires a more extensive confirmation by each manufacturer that vehicles are actually meeting emission standards in use. The current EPA recall program is left intact in the proposal, but would be enhanced by the in-use testing performed by manufacturers.

C. CAP 2000 Summary

EPA considered a broad range of options in developing today's proposal. EPA considered a "self-certification" option which would entail virtually no pre-production EPA oversight. Several factors became apparent that ruled out a pure self-certification approach:

—Section 206(a)(1) of the Clean Air Act requires that the Administrator affirmatively evaluate compliance and issue certificates of conformity based on test data as specified by the Administrator.
—A reasonable amount of information submitted to EPA by the manufacturer is necessary to establish a description of what is covered under the certificate of conformity, and is necessary for the Agency to effectively perform in-use compliance and enforcement actions.
—The Agency believes that certification by the Agency is critical in pollution prevention, because it provides the first (and only, in the case of many small volume manufacturers) screen of vehicle emission performance. Recall and SEA, while powerful design incentives for industry, do not capture all problems, and recalls occur after environmental damage has occurred.

The proposal being made today would streamline the certification program structure to retain EPA's confidence in pre-production compliance determinations while reducing costs for manufacturers. EPA proposes to streamline certification testing and information requirements for manufacturers, while allowing EPA to more effectively and efficiently audit vehicle designs for compliance. Manufacturers would be allowed more flexibilities in certification testing and timing. To verify the compliance predictions made for certification, today's proposal would also require manufacturers to conduct testing of in-use vehicles and to report the results to EPA. This would result in the generation of significant amounts of in-use FTP data that are currently not available, providing more information for the Agency's recall program and for studies of in-use vehicle emission control performance in general.[2] Moreover, EPA believes that the proposed CAP 2000 program would result in overall cost savings for the industry (estimated at about $55 million dollars per year) while improving in-use emissions compliance.

The key features of the compliance program under CAP 2000 are listed below. Section II will more fully describe the proposed changes along with the rationale for making the changes.

1. Streamlining the Certification Program

Streamlining the Certification program involves three elements: reductions in testing requirements, reductions in paperwork and reporting requirements, and allowing additional flexibilities in the timing of reporting and confirmatory testing requirements. These elements would be accomplished by making the following changes:

a. Eliminate the current groups based on engine families and replace them with broader groups. (See Section II. A. and C. below.) "Durability groups" would be created to select the vehicles that would demonstrate similar deterioration characteristics. These are broader coverage groups than the current engine families and would result in about a 75% decrease in the number of durability demonstrations now required. "Test Groups" would be created to determine compliance levels and define the coverage of each certificate of conformity. Test groups are slightly broader than current engine families, but today's proposal would require only one test vehicle per test group rather than the current two vehicles per engine family. This would result in about a 50% decrease in emission-data test vehicles.

b. Expand options for durability demonstrations and for test vehicle usage. (See Section II. B. below.) Today's proposal would eliminate the current "AMA" durability mileage accumulation in favor of manufacturer-developed durability cycles approved by EPA. EPA also proposes to allow the use of aged components to determine compliance rather than establishing deterioration factors. Today's proposal would also allow more use of development vehicles for certification testing.

c. Allow issuance of conditional certificates of conformity before final EPA confirmatory testing is done. (See Section II. E. below). Under CAP 2000, manufacturers could opt to produce and sell vehicles under a conditional certificate of conformity if the required manufacturer testing is completed but confirmatory testing scheduled to be performed at EPA is not yet complete. If the confirmatory test at EPA fails, the manufacturer would have to suspend sales and recall affected vehicles. This option would give manufacturers more control on production timing, while assuring final compliance. It is unlikely that manufacturers would take this option if there is a chance the vehicle would fail the test at EPA.

d. Allow more confirmatory testing at manufacturers' laboratories while retaining a random audit sample at EPA. (See Section II. E. below.) This would reduce test vehicle shipping costs for manufacturers, improve manufacturers' certification timing control, and reduce EPA laboratory compliance testing burdens. EPA would not relinquish its right to confirmatory test any vehicle at EPA.

e. Reduce overall reporting burdens and delay submission deadlines for more detailed information. (See Section II. H. below.) Today's proposal would revamp the certification reporting requirements to reduce recordkeeping and reporting efforts. It is being estimated that the total burden-hours associated with information record keeping and reporting will be reduced from 938,600 to 428,583 hours (54%). EPA also proposes to divide the Application for Certification into two parts. Part 1 would include information deemed essential for pre-production purposes and would be required before a certificate is issued. Part 2 would consist of more detailed vehicle descriptions which is primarily needed for in-use compliance purposes and therefore would not have to be submitted until after certification. This change would more evenly distribute over time the workload for manufacturers and EPA.

f. Allow the use of fuel economy labels before completion of confirmatory testing at EPA (see Section II. F. below.) Similar to the proposal to allow conditional certification before EPA confirmatory testing is complete, this

[1] Memorandum from Jane Armstrong and Kelly M. Brown, Co-Chairpersons to Mr. Michael P. Walsh, *et al.* dated October 3, 1996 entitled "Findings and Recommendations, Compliance Working Group" is placed in the Docket for this proposal.

[2] Important areas of non-FTP in-use data available for study include OBD repair statistics and I/M test results.

proposal would allow manufacturers to calculate and use fuel economy label values before EPA confirmation. Manufacturers would be required to issue new labels if the recalculated labels based on EPA confirmation changed by a certain threshold. The manufacturer would also be liable for any gas guzzler tax increases as a result of the recalculation. This proposed change would give manufacturers better control of production timing.

2. Post-Production Testing

This rulemaking would shift the balance of EPA's compliance efforts from pre-production certification to improvements in in-use emissions. (See Section II. I. below.) EPA is proposing to require manufacturers to perform testing on in-use vehicles. If certain defined levels of potential noncompliance were identified, the manufacturer would be required to conduct or fund additional confirmatory testing to aid in making recall determinations. The purpose of this testing is two-fold: First, the in-use data would be used to verify manufacturers' compliance and durability predictions used in the certification process. Modifications in predictive tools used by manufacturers would have a direct bearing on the durability and calibration of future designs. Second, the information would be used to provide better targeting for EPA's recall compliance program.

EPA is proposing that manufacturers test two segments of their in-use fleets per model year. The first fleet would be tested at low mileage (minimum of 10,000 miles, but less than one year after the end of production). This low-mileage fleet would provide early warning of potential problems or failures that should be remedied before more pollution is produced during the fleet's useful life. The second (high mileage) fleet would consist of vehicles at least four years old and with a minimum of 50,000 miles accumulated. The size of the low and high mileage fleets would be dictated by sales categories. Small volume manufacturers (and small volume test groups) would have little or no testing, depending on sales limits.

3. Small Volume Sales Considerations

EPA is proposing several special provisions for small volume manufacturers and for large volume manufacturers with small volume test groups. These provisions are discussed in detail in Section II. G. below.

D. Legal Authority

Sections 203, 206, 207, 208 and 217 of the Clean Air Act provide EPA with the authority to revise the current emissions compliance procedures as described in this proposal. In particular, EPA's authority to make the major revisions found in CAP 2000 is based largely on sections 206 and 208(a) of the Act. Section 206 provides EPA with the authority to test, or require to be tested in such manner as the Agency deems appropriate, any new motor vehicle to determine whether the vehicle conforms with applicable emissions standards. EPA accordingly has the broad authority to streamline the current certification process to improve the efficiency of the process. Section 208(a) further requires manufacturers to establish and maintain records, to conduct tests, and to submit information that EPA may reasonably require to determine whether a manufacturer is in compliance with Title II of the Act and it implementing regulations, or to otherwise carry out the provisions of Title II. This includes information needed by EPA to make certification decisions, to determine whether vehicles built and sold are covered by the certificate, and to ensure that defeat devices are not used. Section 208(a) also provides EPA with the authority to require post-production testing of vehicles by manufacturers to provide a means of monitoring the emissions performance of vehicles driven under real-world conditions. Such testing serves as a check on the accuracy of the certification procedures and on the levels of in-use compliance with applicable emissions standards.

II. Requirements of the Proposed Rule and Discussion of Rationale

A. Durability Groups

1. New Durability Groups for Exhaust Emissions

Currently, vehicle grouping for the purpose of certification is accomplished though the application of the "engine family" and "emission control system" definitions in the regulations. Today's proposal drops the definitions of "engine family" and "emission control system" and establishes a new definition for "durability group."

The purpose of durability groups is to combine vehicles which are likely to exhibit similar exhaust emission deterioration over their useful lives, based on the characteristics of current-technology vehicles that most significantly affect the deterioration of emission control over time. Under the proposal, durability groups would be based on engine type, fuel type, fuel system, catalyst construction, type of precious metals used in the catalyst, and relative engine/catalyst size and loading rates.

The engine family concept was originally developed as a way to combine vehicles of similar emission deterioration rates. At that time (in the early 1970's), the use of catalytic converters was less prevalent, and most emission reductions occurred though modifications to the engine operating characteristics. For these vehicles, all emission deterioration was due to increases in emissions coming directly out of the engine (called "engine-out" emissions). Consequently, the definition of engine family focused on engine-based parameters. Since that time, there have been many advances in exhaust emission control technology which have made the engine family concept less useful for the purposes of grouping vehicles together on the basis of emission deterioration.

In today's vehicles, most emission control is accomplished through catalytic conversion of the exhaust while the engine is controlled to operate within carefully controlled air/fuel ratios to ensure optimum catalyst efficiency. Most manufacturers have demonstrated that essentially no engine-out deterioration is experienced in their current product.[3] However, the mating of the catalyst with the engine is extremely important. Appropriate sizing of the catalyst to the engine is critical to achieve an appropriate catalyst residence time (the time the exhaust gases remain in the catalyst) so that the catalytic reaction has time to be completed. Adequate levels of precious metal loading and appropriate dispersion are necessary to provide the active sites necessary for conversion and to achieve the desired conversion rates. Also, the catalyst must be placed in a thermal environment that allows it to quickly come to operating temperature but does not expose it to damaging amounts of high temperature during in-use driving.

The durability groups proposed in today's action take into account the changes in emission control technology by shifting the focus away from engine parameters to the basic catalyst formulation and the matching of the catalyst to the engine. EPA estimates that based on the current vehicle product offering, the proposal would

[3] As part of the current alternative durability program, manufacturers develop their own program for estimating emission deterioration. Most manufacturers have demonstrated no engine-out emission deterioration and have developed programs which focus on thermal aging of the catalyst.

result in a reduction in the number of required durability demonstrations by as much as 75 percent. This translates into a substantial savings to manufacturers. Broadening the grouping criteria for durability demonstrations, by itself, may add some variability in emissions as compared to the current engine family definition; however, the Agency believes that the proposed broader durability groups coupled with worst case durability vehicle selections (discussed below) and in-use verification program (also discussed below) would comprise a more accurate and effective emission control program than the current procedures and result in significant environmental benefits.

Three provisions of the proposal allow manufacturers flexibility in assigning durability groups. First, manufacturers may use different criteria than relative engine/catalyst size and loading rates provided that the criteria result in at least as many groups and do not group together dissimilar vehicles. However, the other five criteria (engine type, fuel type, fuel system, catalyst construction, and type of precious metals used in the catalyst) must be followed. Second, manufacturers may further divide durability groups to meet their needs without advance Agency approval provided that vehicles with dissimilar emission deterioration or durability are not combined. Lastly, the Agency would consider requests to combine groups based on (1) substantial evidence that all the vehicles in the larger group have the same degree of emission deterioration, (2) evidence of equivalent component durability over the vehicles' useful lives, and (3) evidence that the combined groups would result in sufficient in-use verification data to assure clear liability under the Agency's recall authority.

The Agency considered several related alternatives which would have allowed manufacturers to establish their own groups within broad guidelines (such as groupings based on engine type, fuel type and fuel system).[4] The Agency believes that durability groups should contain only similar designs, particularly the catalyst design. In the Agency's opinion, catalyst design should be grouped separately for durability because deterioration of catalysts is a chief source of emissions deterioration for most vehicle designs in production today. Combining dissimilar catalyst designs into the same group may make it infeasible to accurately predict the expected worst case vehicle configuration for deterioration within that group. For instance, it may be hard to evaluate which is expected to be worse case for deterioration: a turbo charged vehicle with an aggressive axle and transmission gearing and heavier test weight but normal catalyst parameters versus a vehicle with more standard axle, transmission and weight parameters but equipped with a catalyst of different precious metal content on a different substrate with a different catalyst sizing/loading scheme. Allowing groups to contain such dissimilar vehicles would undermine the ability to accurately represent the entire group with a single durability demonstration and may lead to noncompliance in use. Consequently, the Agency rejected this alternative in favor of the proposal it is making today.

2. Evaporative/Refueling Family Definition Retained

Today's proposal does not change the certification grouping concept of evaporative/refueling family in the current regulations (40 CFR 86.000–24). The Agency believes that the current provisions for evaporative/refueling families are adequate for grouping vehicles and that the current procedures focus on the appropriate technology. Separate certificates of conformity would be issued for each evaporate/refueling family within a test group. The Agency does, however, invite comments to improve the provisions for grouping vehicles into evaporative/refueling families.

B. Durability Demonstration

The Clean Air Act (CAA) prohibits manufacturers of new motor vehicles from selling or introducing new motor vehicles into commerce unless the vehicles are covered by a certificate of conformity. EPA is charged with the responsibility of issuing certificates of conformity based on testing which verifies compliance with the appropriate emission standards over the vehicles' useful life. This necessitates a prediction of the durability or rate of deterioration of the vehicle's useful life emission levels before actual production begins.

The process of demonstrating emission durability for the purpose of certification begins well in advance of production. For light-duty vehicles, EPA's current standard durability process requires manufacturers to accumulate mileage on a pre-production vehicle over a prescribed driving cycle for 100,000 miles to simulate deterioration over the useful life. These vehicles are termed durability data vehicles (DDVs); the mileage accumulation cycle, specified in 40 CFR Part 86, is commonly referred to as the AMA cycle.

In this process, emission data are generated at periodic intervals during AMA mileage accumulation and a linear regression of the data is performed to calculate a multiplicative deterioration factor (DF)[5] for each exhaust constituent. In the current durability program, low mileage vehicles (referred to as "emission data vehicles," or EDVs) are tested with calibrations that the manufacturer intends to produce. The emissions from these tests are multiplied by the DFs to calculate the projected emissions levels (referred to as the "certification levels") at 100,000 miles. The certification levels must be at or below the applicable emission standards in order to obtain a certificate of conformity.

Beginning with the 1994 model year, EPA durability regulations for light-duty trucks (LDTs) have permitted manufacturers to use their own methods, based on good engineering judgment, to determine DFs subject to review by EPA. Although EPA had concerns initially regarding the accuracy of the DFs generated by this method,[6] the manufacturers improved their processes after discussions between EPA and industry. The Agency now believes that the light-duty truck DFs generated by manufacturers using their own methods are at least as representative as those based on AMA mileage accumulation.

Manufacturers have long identified the durability process based on mileage accumulation using the AMA cycle as very costly and requiring extensive lead time for completion. EPA has been concerned about the ability of any fixed cycle—including the AMA cycle—to accurately predict in-use deterioration for all vehicles. In fact, EPA has particular concerns that the AMA does not represent the driving patterns of today and does not appropriately age current design vehicles. As a result, EPA believes that the AMA may have become outdated.

The AMA cycle, which was developed before vehicles were equipped with catalytic converters, contains a substantial portion of low

[4] This alternative was proposed to the FACA panel by the manufacturers' task group and is included in the Docket.

[5] A multiplicative DF is calculated by performing a least-squares regression of the emission versus mileage data for each exhaust emission constituent and dividing the 100,000-mile emission level by the 4,000-mile emission level. The DF is then used with other test vehicles to determine compliance with the standards. The product of the emissions multiplied by the DF (referred to as the certification level) must be less than or equal to the emission standard to receive a certificate of conformity.

[6] See 57 FR 18545 NPRM (April 30, 1992) on RDP 1.

speed driving to address concerns about engine deposits (which were a major source of deterioration in pre-catalyst vehicles). However, since the advent of catalytic converters, better fuel control, and the use of unleaded fuel, causes of deterioration have shifted from low speed driving to driving modes which include higher speed/load regimes that cause elevated catalyst temperatures. The AMA driving cycle does not adequately focus on these higher catalyst temperature driving modes and contains numerous driving modes which do not significantly contribute to deterioration but do make the process longer with little added benefit.

In response to these concerns, EPA began a voluntary program in the 1994 model year for light-duty vehicles which allows manufacturers to develop and use their own procedures to evaluate durability and deterioration (subject to prior Agency approval), provided that the manufacturer conduct or fund an in-use "reality check" test program to evaluate the effectiveness of its predictions. The initial program, referred to as revised durability program I (RDP I), was an interim program scheduled to expire after the 1995 model year and was intended to serve as a bridge to an anticipated complete revision to the durability process (RDP II). The provisions of RDP I have since been extended in a series of regulatory actions.[7] The Agency has decided to address the revisions it was considering in RDP II as part of the comprehensive redesigned certification process which it is proposing today.

Due to Agency concerns about the adequacy of the AMA as a durability mileage accumulation cycle, the Agency is now proposing to eliminate the use of AMA for new durability demonstrations starting with the 2001 model year. The Agency is proposing to allow manufacturers to use previously generated DFs from the Standard AMA Durability Program, the Standard Self-approval Durability Program for light-duty trucks, or the Alternative Service Accumulation Durability Program for a period of three years, provided that manufacturers agree to collect the required in-use verification test data required by the proposed CAP 2000 rule.[8]

The Agency is proposing to replace the AMA-based durability program with a manufacturer-designed durability process similar to the current optional RDP-I program. In today's proposal, each manufacturer (except small volume manufacturers and test groups which have special provisions discussed below) would be required to design a durability process which would match the in-use deterioration of the vehicles they produce.

As part of this process, manufacturers would also be required to collect emission data on "candidate" in-use vehicles selected under the provisions of the in-use verification program described in section II. I. below. The in-use data would be used by the manufacturer to improve the predictive quality of its durability program and by the Agency to target vehicle testing for its recall program. If a significant number of the in-use vehicles exhibit deterioration significantly higher than predicted at the time of certification, or exceed emission standards, manufacturers may be required to make changes to their durability processes and/or run further in-use testing to generate recall quality data. The in-use verification testing program and its consequences are discussed in more detail in section II. I. below.

The Agency believes that allowing manufacturers to develop their own durability programs would improve the predictive quality of the durability process. Manufacturers would be able to tailor their vehicle aging procedures to the unique driving and usage patterns of their customers, and thus account for the effect that these patterns have on emission deterioration and emission control system designs.

The proposed program gives the manufacturer the responsibility to develop a durability plan that matches in-use performance on "candidate" vehicles (vehicles which would meet the selection criteria of the in-use verification program) and the flexibility to design an efficient program that can meet that goal. The Agency expects that manufacturers will act in good faith to design their programs. The Agency's advance approval requirements for these procedures and the in-use verification requirements should assure well designed programs are implemented by manufacturers. The Agency believes that the in-use verification data would provide feedback information to manufacturers which can be used to further refine their durability processes. The in-use verification data would also serve as a tool for targeting Agency recall investigations or would trigger changes to the manufacturer's durability processes if the goals are not met. In summary, the Agency believes that under the proposed CAP 2000 program, the level of emission noncompliance in use would be reduced, thus improving the overall ambient air quality.

In addition to the benefits to the environment, the proposed flexibilities in the durability program design and implementation would result in significant time and money savings for manufacturers. The proposal would eliminate the need for a separate EPA durability program and would allow manufacturers to use durability techniques that they are currently using for their internal development processes. The durability procedures are discussed in more detail in the following section.

The RDP I procedures (which have been used as the basis for today's proposal) have been in place for several years, and the history of this program supports the Agency's views on the effectiveness and cost reduction likely under the proposed CAP 2000 program. Manufacturers participating in the RDP I program have reported a significant savings in the time necessary to complete certification. Although EPA has received only a limited amount of completed in-use data from the RDP–1 program (since some of the data are gathered from four-year-old vehicles), the data received show an improved level of deterioration prediction and lower in-use emissions. At the same time, no issues of noncompliance in use have been indicated so far in the program.

1. Approval of Durability Programs

The Agency has a responsibility to assure that a manufacturer's durability program is accurate before it is used in the certification process. EPA has been approving manufacturer alternative durability programs under RDP-I for several years and has provided guidance to assist manufacturers in the approval process[9]. To receive approval under RDP I, manufacturers are required to show that their durability processes are designed to cover a significant majority of deterioration rates experienced by vehicles in actual use.[10] The requirement that the procedure cover a significant majority of the deterioration experienced by vehicles in use, rather than the entire population, is not intended to relax the goal of the program but is to allow for the uncertainty inherent in any sampling plan. Two major types of durability processes have emerged from the RDP I

[7] 59 FR 36368 (July 18, 1994), 62 FR 11082 (March 11, 1997), 62 FR 11138 (March 11, 1997) and 62 FR 44872 (August 22, 1997).

[8] The process of using previously generated emission or durability data in a subsequent model year is referred to as carryover.

[9] Refer to the Agency's July 29, 1994 guidance letter "Alternative Durability Guidance for MY 94 through MY 98", reference number: CD–94–13.

[10] Manufacturers have typically shown that their durability programs cover ninety percent or higher of the distribution of deterioration rates experienced by vehicles in actual use.

experience: whole vehicle mileage accumulation cycles and bench aging procedures.

The whole vehicle aging concept involves driving vehicles on a track or dynamometer on an aggressive driving cycle of the manufacturer's design. Typically, the speed, acceleration rates, and/or vehicle load are significantly increased compared to the AMA cycle or normal in-use driving patterns. The vehicle can be driven either for full useful-life mileage, or, for a higher stress cycle, the vehicle can be driven for a reduced number of miles (e.g., 1 mile on the high speed cycle equals 2 miles in use). In either case, the vehicle is tested periodically and a DF is calculated. By choosing the profile of the cycle carefully, manufacturers have been able to meet or exceed the in-use deterioration goals of the program (based on the limited in-use verification data receive to date) while taking significantly less time to complete the durability process. Such a program could take a quarter to half the time to complete as the AMA cycle with the attendant cost savings.

The bench aging procedures involve the removal of critical emission components (such as the catalyst and oxygen sensor) and the accelerated aging of those components on an engine dynamometer bench.[11] During the aging process important engine/catalyst parameters are controlled to assure proper aging. Typically, elevated catalyst temperatures are maintained while fuel is controlled to include lean and rich spikes and stoichiometric control. This process assumes that (1) most emission deterioration on light-duty vehicles and trucks is due to catalyst deterioration and (2) that catalyst deterioration is largely due to high thermal exposure during typical fuel control (including lean and rich spikes).[12] Through a series of tests, manufacturers determine the amount of time needed to bench-age a catalyst the equivalent of 100,000 miles. Typical bench aging periods are 100–200 hours. Other sources of deterioration can be accounted for by aging the catalyst for an additional amount of time. Even with the setup time of the engine test bench, the cost savings of such bench aging procedures are very significant.

While the cost savings of these procedures are very significant, the Agency believes that the programs are also more effective than the current AMA program at predicting the deterioration that occurs in actual use. Based on past experience, manufacturers' alternative durability programs should improve the effectiveness of EPA's vehicle compliance programs. To obtain approval from the Agency, manufacturers would be required to demonstrate that their durability processes were designed to generate DFs representative of in-use DFs. This demonstration would be more than simply matching the average in-use DFs; manufacturers would need to demonstrate to EPA's satisfaction that their durability processes would result in the same or more deterioration than is reflected by the in-use data for a significant majority of their vehicles. This approval process is the same as that already established for RDP–I. EPA believes it continues to be appropriate because it limits the Agency's risk of allowing a manufacturer durability process that would not work in use and ultimately would require costly recalls. Furthermore, the manufacturer designed durability procedures which meet the approval requirements have been demonstrated as achievable during RDP–I and have been accomplished for significantly less cost than the current AMA mileage accumulation program. Consequently, the Agency is proposing that manufacturers target their durability processes to cover a significant majority (typically 90 percent or more of the distribution) of the deterioration rates experienced in actual use on "candidate" vehicles (the same requirement established during RDP–I).

While the Agency believes its decisions reached under the RDP–I approval process have been correct, the process currently used by EPA for reaching those decisions has, of necessity, sometimes been detailed and time consuming, given the very new and untested nature of the RDP–I program. Nevertheless, during the approval process, the Agency has influenced manufacturers to make improvements to their aging procedures and identified and corrected some manufacturer mistakes. Clearly, the Agency's involvement in the development and approval of these process has benefitted the outcome and its effect on clean air. In redesigning this process, the Agency proposes to retain the before-certification point of control for the approval, but wants to streamline the steps and make the process more predictable for manufacturers.

To obtain approval for a durability process, EPA is proposing to require that manufacturers provide data showing that the aging procedures would predict the deterioration of the significant majority of in-use vehicles over the breadth of their product line which would ultimately be covered by this procedure. The approval procedures used in RDP–I may be used to satisfy these requirements.[13] The Agency is proposing to allow manufacturers to determine the applicability of approved durability processes to future product offerings providing that the manufacturers use good engineering judgment in reaching those determinations. Also, the Agency is proposing to allow manufacturers to make some modifications to approved durability processes if those modifications will improve the ability to predict in-use emission levels on candidate vehicles or if they produce a more severe aging process. Such modifications will be limited to incorporating additional data into the original algorithms of the approved durability process. If a manufacturer wishes to change the algorithms used to determine the aging characteristics of the durability process, these changes will be considered a new durability process and will require advance approval by the Administrator.

The Agency believes that the decisions made under RDP–I to approve manufacturer durability processes are equally applicable to today's proposal. Consequently, the Agency would approve the continued use of any alternate durability process approved under RDP–I in the proposed CAP 2000 program. Manufacturers would not be required to obtain a new approval to use a previously approved RDP–I durability procedure under the rules proposed today.

The Agency is not proposing any changes to the current procedures used to obtain DFs for evaporative/refueling families. Because these procedures currently allow manufacturers to design their own durability demonstration program using bench testing or other methods, the Agency sees no need to propose any change. Manufacturers would continue to develop DFs for evaporative/refueling families and systems using good engineering judgement. A small amount of evaporative/refueling data would be collected during the in-use verification

[11] An engine dynamometer bench consists of an engine dynamometer, a "slave" engine, and required controllers and senors to achieve the desired operation of the engine on the dynamometer.

[12] To obtain approval to use this process, manufacturers supply evidence that these assumptions are valid for their vehicles. Minor additional sources of deterioration may be accounted for by over-aging the catalyst to account for these sources.

[13] Reference EPA's guidance letter CD–94–13 dated July 29, 1994.

test program. Manufacturers are expected to use these data to improve their processes.

2. Approval for Using Aged Components on EDVs to Develop Certification Levels

During the discussions with the automotive industry throughout the FACA process, manufacturers suggested an alternative method to demonstrate compliance with useful life standards for the purposes of certification. In this alternative, emission components aged to the equivalent of full useful life would be installed on EDVs, the test data from which would then serve to show compliance with the full useful life emission standards. Some manufacturers indicated that they currently use aged components on development vehicles to calibrate their vehicles and have found that this process was as effective and more cost efficient than applying DFs to EDVs. The components are aged via the bench aging process discussed above and are installed directly on the EDVs. The emissions from the EDV tested with the aged components represent those equivalent to a 100,000 mile vehicle. Furthermore, the use of aged components would save manufacturers the cost of building and accumulating stabilizing mileage on a separate DDV to calculate a DF. It may also save some of the costs of mileage accumulation to stabilize EDV emissions since the catalyst would be aged separately from the vehicle.

If this durability option were selected, the manufacturer must develop a specific aging plan (for example, 850 degrees C, 200 hours, on aging protocol "A") which would apply to all members of the durability group. Each EDV must have its catalyst and oxygen sensor (plus any other component that is part of the manufacturer's bench aging plan) removed and aged using the aging plan for the group. The EDV must be broken-in, or stabilized (using good engineering judgment) by accumulating an appropriate amount of miles, generally around 4000 miles. The aged components must then be re-installed, and the EDV then tested for emissions. The results of the emission tests with the aged components would be treated as certification levels (equivalent to emission levels with DFs applied) and directly used to determine compliance with the standards.

Aged components would be allowed to be used on more than one vehicle as follows. If several EDVs have identical catalysts and identical oxygen sensors, a single set of aged components may be shared between vehicles. If both the specific aging plan and the aged components are identical in a subsequent model year, the same aged components may be used on those EDVs for the subsequent model year. Because of the synergistic effects between components aged together, the aged components must be keep together as a single aged system and may not be mixed with other aged components.

The Agency agrees with manufacturers that the use of aged components on EDVs could be an effective durability and emission compliance option because this process uses the same aging techniques as those used to calculate DFs in the normal durability program. Furthermore, the effect of using aged components directly on an EDV is equivalent to applying a DF to an EDV which is calculated from those same aged components. The direct use of aged components also saves the expense of conducting a test (or several tests) to calculate a DF. Based on these facts, the Agency is proposing to allow the use of aged components on EDVs as an alternative to calculating and applying a DF. This change would reduce the cost of the certification program to the regulated industry and provide the flexibility to use existing in-house procedures for Federal compliance procedures.

3. Selection of the Durability Data Vehicle (DDV) Configuration

The Agency is proposing that the configuration with the highest expected level of in-use deterioration be selected as the durability data vehicle (DDV) configuration. This contrasts with the current procedure which requires the DDV selection to be based on parameters of the highest selling configuration, and requires testing to be conducted at the highest sales-weighted weight.[14] These selection criteria were adequate when using the much narrower classification of engine family/emission control system but are not appropriate for the larger durability groups being proposed today.

After selecting durability groups based on parameters that contribute to emissions deterioration in use, the size of the groups would increase for most manufacturers. Due to the larger size of the groups, the Agency believes that the new durability groups may, in some cases, exhibit more variability in emission deterioration than the current engine family/emission control systems. Selecting the DDV configuration based on sales levels (as is currently done) may overlook configurations which have higher rates of deterioration and may ultimately lead to vehicles exceeding emission standards in use. In contrast, selecting the expected worst case configuration would lead to the highest deterioration rate for the vehicles within the durability group. Requiring the entire durability group to be represented by the worst case vehicle from that group would provide adequate assurance that deterioration is not understated for the whole group. Moreover, it would accomplish this goal for the lowest possible cost in test vehicles.

If a manufacturer had a concern that a particular configuration exhibited much worse deterioration than other vehicles within the defined durability group and that applying a deterioration factor based on that vehicle would overstate the deterioration experienced in actual use, the manufacturer may use the flexibilities in the proposal to realign the configurations within a group without increasing the total number of groups. Manufacturers may also subdivide groups to meet their needs.

The Agency considered retaining the current engine family definitions and DDV selection procedures and selecting a single configuration from these selections.[15] However, even selecting the worst case DDV selection from among the sales-weighted configurations resulted in too much risk that a vehicle design not tested as part of the durability process would be certified as compliant with the standards when in fact it severely deteriorated in use. Under both the Agency's proposal and this alternative, one DDV would be required per durability group. However, when coupled with the grouping proposal suggested by AAMA/AIAM in the FACA process, the larger number of durability groups would require more testing. The Agency accordingly concluded that this alternative involved more risk of noncompliance and additional cost. Consequently, the Agency rejected this option in favor of the proposal made today.

4. Durability and Emission Data Carryover

"Carryover" is a concept that allows the use of data generated in a previous model year to be used in a subsequent model year in lieu of additional testing. The current regulations (see 40 CFR

[14] See 40 CFR 86.000–24.

[15] Manufacturers proposed in the FACA process that current engine family definitions and DDV selection procedures be retained. Durability data would be generated on the worst case selection of the current "average vehicle" DDV selections. See Memorandum from Jane Armstrong and Kelly M. Brown, Co-Chairpersons to Mr. Michael P. Walsh, et. al. dated October 3, 1996 entitled "Findings and Recommendations, Compliance Working Group" in the docket for this proposal.

86.098–24 (f)) give the Agency the discretion to allow carryover of durability and emission data. The Agency's current policy allows durability carryover when, among other requirements, the current DDV is judged as having equivalent or superior durability performance.[16] For carryover involving alternate durability processes approved under RDP I, the Agency has established that carryover of the DF and the in-use verification data would be considered separately.[17]

The Agency is proposing to allow carryover of durability and emission data when the manufacturer determines, using good engineering judgment, that the new configuration is capable of equivalent or superior emission or durability performance. The proposal allows the Administrator to request catalyst temperature data prior to certification for durability data carryover decisions. The Agency expects the manufacturer to generate these data for their internal review in the circumstances currently identified in EPA Advisory Circular 17F (using the procedures discussed in that document or using good engineering judgment) as part of their good engineering judgment to carry over the data.

EPA is proposing not to allow in-use verification data to be carried over. This is discussed separately in section II. I below.

5. In-Use Verification Feedback Analysis

The proposed requirement that the manufacturer-designed durability process accurately predict in-use emission performance is a crucial part of CAP 2000. A durability process that understates in-use emission levels could lead to noncompliance in use. Although noncompliance, once detected, could be addressed by a recall, the best situation is to prevent noncompliance from the beginning. An accurate durability process facilitates a more meaningful certification process which identifies noncompliance before the vehicles are produced and avoids excessive in-use emissions. The in-use verification program is a tool which can be used by the Agency and the manufacturers to improve the durability process and avoid excessive emissions in use and costly recalls.

It is the Agency's expectation that manufacturers would use the results of the in-use verification testing to continuously improve their durability projections to better cover the majority of emission performance in use. EPA acknowledges that, in isolated cases, a particular test group's in-use verification data may exceed the standards or be significantly higher than predicted due to the variability inherent in any sampling plan. In these cases, EPA expects manufacturers to analyze the possible causes of the apparent failure to predict in-use emissions and to assure themselves and the Agency that their processes remain valid and are an acceptable predictor of in-use emission levels for the test group in question.

It is the Agency's responsibility to become involved when the in-use verification seems to indicate a problem with a manufacturer's durability process. The Agency is proposing a program where it would formally intercede when the in-use data indicate a significant level of noncompliance in use or when the durability process significantly underestimates in-use emission levels. The Agency is also proposing that the Administrator may, from time to time, require manufacturers to analyze certain in-use data and draw conclusions regarding the validity of the manufacturer's durability process in addition to the formal requirements discussed below.

In particular, a formal response concerning the validity of the manufacturer's durability process would be required when the average in-use verification data for a test group (or several test groups) exceeds 1.3 times the applicable emission standard and at least 50% of the test vehicles fail the standard in use.[18] In those situations, the Agency is proposing to require the manufacturer to perform an analysis of both the relevant in-use verification data and the ability of the manufacturer's durability plan to adequately predict in-use emission levels and/or compliance with the standard. If the manufacturer concludes that an improvement of its durability protocol (or other procedure) is warranted, these changes should be discussed as part of the analysis. EPA is proposing to allow manufacturers sixty days to complete that report.

EPA may also withdraw its approval to use a durability procedure for future certification if the Agency determines that the procedure does not accurately predict in-use emission levels. This could occur for example, if the test group data showed significant noncompliance with emission standards that did not exceed the 1.3 times the standard threshold. It is not the intention of this provision to require changes to a manufacturer's durability procedure which is inaccurate if the inaccuracy does not threaten the ability of the durability process to predict compliance with emission standards on the vehicles which it covers. An inaccurate procedure which over-estimates the amount of deterioration experienced by in-use vehicles would not require a change to the durability process. Prior to reaching a final decision, the Agency would invite the manufacturer to perform an analysis of the relevant in-use verification data and address the ability of its durability process to adequately predict in-use emission levels and to provide other relevant data. EPA is proposing to allow manufacturers sixty days to complete that report.

Under the proposal, EPA would review the information submitted by the manufacturer or proceed on its own initiative if the report is not submitted within sixty days. If the Agency concludes that the durability process does not adequately predict in-use emission levels or compliance with the standards in use, the Agency may revoke its approval for the applicable manufacturer's durability process for the portion of the fleet not yet certified that the Agency determines to be affected. In this case, the manufacturer would be required to develop a revised durability process. The revised durability process may consist of an adjustment factor applied to the current durability process to reflect the shortfall in predicting in-use emission performance. Alternatively, an entirely new durability process may be submitted for Agency approval.

6. Line Crossing

In the current regulations, emission levels from durability vehicles must comply with all applicable emission standards. When durability vehicle test data for any constituent exceeds the standards, this is referred to as "line crossing".[19] The concept of line crossing is only valid as long as the durability demonstration is limited to cover vehicles meeting a single set of emission standards. Today's proposal, as discussed earlier, defines a durability group such that it may encompass several test groups, each of which may

[16] EPA's current policy regarding carryover and discussion of the application of the "equivalent or superior durability performance" concept is contained in OMS Advisory Circular 17F (A/C 17F), dated November 16, 1982 and amended on January 21, 1988.

[17] See EPA's guidance letter CD–94–13, Subject: Alternative Durability Guidance for MY94 through MY98, dated July 29, 1994.

[18] This is the same criteria that the Agency is proposing for requiring manufacturer-funded in-use confirmatory testing as discussed in section II. I. below.

[19] Refer to 40 CFR 86.001–28 (a)(4)(i)(B)(1) for the current criteria for line crossing.

have different emission standards. This results in the likelihood that a single durability vehicle demonstration may cover several levels of emission standards. It would not be appropriate to expect a single durability vehicle to comply with multiple levels of emission standards. Consequently, the Agency is not proposing any line crossing criteria for durability data vehicles.

However, the manufacturer is responsible to assure that the DDV is adequately representative of the production vehicles which it is designed to represent and EPA thus expects the DDV emission levels to represent those of the specific test group it belongs to. If the DDV should fail to comply with the standards applicable to its associated test group, EPA would question whether the DDV is adequately representative of production and would likely require submission of the basis for the manufacturer's good engineering judgement that the DDV remains representative of production when it fails the applicable standards.

C. Emission Data and Emission Compliance Demonstration

1. Test Groups

EPA is proposing that compliance with the emission standards be demonstrated for each "test group." The durability groups discussed in section II. A. above are determined based on parameters expected to affect *emissions deterioration*. However, within a durability group, which could include a wide variety of vehicles and trucks, the *emission levels* can be quite different. This is due to technical parameters which, while not affecting engine durability and emission deterioration, are directly related to the level of emissions produced by that engine. Therefore, the test groups as proposed would consist of subdivisions within durability groups which have similar emission levels.[20]

EPA is proposing that test groups have the following common elements: applicable emission standards, engine displacement (within a tolerance of 15 percent or 50 cubic inches of displacement (CID)), number of cylinders, and arrangement of cylinders (e.g., in-line or V-shaped). Emission standards are a test group parameter because of the Agency's need to maintain separate compliance treatment. The engine displacement and number of cylinders were chosen as test group parameters because they determine the size of the cylinders, which affects emission formation. The arrangement of the cylinders affects the engine cooling characteristics, which in turn affect the level of emissions. EPA is proposing a number of provisions which allow manufacturers to further divide test groups to meet their needs without advance Agency approval. The Agency is also proposing to consider requests to combine test groups.

Emission data grouping for EPA's current compliance program is based on the engine family. As part of the engine family definition, vehicles are divided into groups based on basic engine (number of cylinders, arrangement of cylinders, and other parameters) and displacement (within 15 percent or 50 CID) and other parameters. As discussed in section II.A. above, the Agency believes that these parameters are not a significant source of emission deterioration. However, the Agency believes that some of these parameters are expected to significantly influence the *level of emissions*. In today's proposal for test groups, EPA has retained those parameters from the engine family definition which it believes most directly affect emission levels. Other, more easily quantified variables that can affect emissions (such as EGR rates, vehicle weight, axle ratios, gear ratios, N/V ratios, transmission characteristics, and engine calibrations) can be used by manufacturers to select the "worst case" emission data vehicle within a test group, described below.

The test group definition would be used to group vehicles within a durability group for emission data vehicle selection and certificate coverage purposes. As discussed in section II. I., test groups would also be used for recruiting vehicles for in-use verification testing.

2. Selection of Emission Data Vehicles

The Agency's goal is to design an emission compliance program that would cover the diversity of configurations within a test group with the fewest number of EDVs possible. Because test groups separate vehicles according to engine characteristics which cause different fundamental emission levels, the Agency believes it is possible to evaluate the expected emission levels of the vehicles within a test group by using sound engineering principles. It is then possible to select a single test vehicle which is the worst case vehicle for exhaust emissions by selecting the vehicle configuration which is expected to be closest to the standard for any emission constituent or emission test procedure. The Agency believes that this worst case vehicle selection would adequately represent all the vehicle configurations within the test group. Consequently, the Agency is proposing that manufacturers test one EDV in each test group within a durability group. The EDV configuration would be the configuration expected to generate the worst case exhaust emissions within the test group.

One EDV per durability group would be required to demonstrate compliance with cold CO requirements. The Agency is proposing that manufacturers select the worst case EDV within each durability group to be tested for cold CO compliance.

In the current certification program, two EDVs are selected within each engine family. One selection is defined in the regulations (and is intended to result in the selection of the vehicle most likely to fail HC or CO emissions). The other EDV is selected by the manufacturer to be the "worst case" of the remaining vehicles. From both the manufacturer and Agency perspectives, worst case selection by manufacturers has worked well. There have been very few instances where EPA has disagreed with a manufacturer's worst case selection, and the manufacturers have been able to make worst case selections with a minimum amount of Agency involvement.

If the worst case selection is well made, a second EDV selection (as required by the current regulations) becomes redundant. In fact, EPA currently has a provision to waive the additional EDV selection if the two vehicles selected are essentially equivalent.

3. Use of Development Vehicles for EDVs

Currently, the regulations require that a unique vehicle be built to represent the EDV. This requirement was established to assure representativeness of the test results of the EDV. EPA established requirements that the vehicle have appropriate maintenance and sufficient representative mileage accumulation to stabilize emissions. Manufacturers typically run a second fleet of similar vehicles called "development vehicles" which they use to develop the production calibrations. These vehicles may have representative mileage accumulation and appropriate maintenance histories. The Agency is

[20] Two factors affect emission levels: the design of the engine, and the emission control devices, such as catalytic conversion and exhaust gas recirculation. Over time, emissions out of the tailpipe will increase primarily due to deterioration of the emission control devices. The engine design does not change over time and does not significantly affect emission deterioration rates, but it does significantly affect the level of emissions. Therefore it is important to determine *both* the emission deterioration rate, which is primarily caused by the emission control system deterioration, and the emission levels attributable to each engine group.

proposing that manufacturers may optionally use vehicles originally built to be development vehicles as EDVs for official certification testing. To be eligible, the manufacturer must provide a written statement that the mileage accumulation and maintenance are appropriate and representative. Furthermore, the manufacturer must provide a written statement that the development vehicle in question was not the vehicle used to develop the calibration to be tested on the EDV.

The Agency believes that development vehicles can be representative vehicles which would generate accurate emission levels. The portability of the calibration from one prototype vehicle to another would be assured by the restriction that a development vehicle which was used to develop the calibration used on the EDV may not be used as the EDV itself. The EDV calibration must be demonstrated to be in compliance with the standards on a different vehicle than original development vehicle. The use of development vehicles rather than specially built EDVs save manufacturers the cost of building a separate vehicle, vehicle depreciation, and mileage accumulation on a separate test vehicle.

4. Accept Statements of Compliance for Certification Short Tests

The certification short test was developed to assure that vehicles complying with the FTP exhaust emission standards could be accurately tested at State Inspection and Maintenance (I/M) test facilities without the need for special test procedures. The purpose of the certification short test is also to assure that manufacturers design their vehicles to comply with Inspection/Maintenance (I/M) tests used throughout the country and to account for the variation in test fuels and waiting times that vehicle owners might encounter.

The Agency is proposing to accept a statement of compliance to satisfy the certification short test compliance requirements (see 40 CFR 86.094–8 and –9). The certification short test has been fully implemented as of the 1996 model year. EPA's review of the CST data submitted by manufacturers thus far has indicated that test results are significantly beneath the standards, with values typically near zero. There have been no instances of test vehicles failing the standards.

Under this proposal, a manufacturer could submit a compliance statement that the manufacturer has determined that all the vehicles covered by the statement will meet the applicable CST emission standards. This statement must be supported by test data (which may be historical data on similar vehicles) retained by the manufacturer and must be based on the manufacturer's good engineering judgment. The compliance statement approach would save the cost of conducting actual tests on both EDVs and development vehicles each year.

Such a statement would directly address the goals of the short test and would apply to all vehicles that the manufacturer builds, not just vehicles which are tested as part of the certification program.

5. Exhaust Tests To Be Conducted

The Agency is proposing to require the same type of testing as is currently performed on EDVs. Each EDV would be tested for all FTP exhaust constituents plus supplemental FTP testing and fuel economy testing. As discussed above, the Agency is proposing that a statement of compliance would be accepted for compliance with certification short test requirements. One vehicle per durability group (the worst case EDV) would be tested for cold CO compliance. All vehicles (tested or not) must also comply with all OBD requirements. EDVs designed to comply with Federal OBD requirements are liable for OBD compliance testing to assure that the OBD system operates properly.

6. Determination of Compliance

The Agency is proposing two methods for determining compliance with standards based on the method of durability demonstration selected by the manufacturer.

If a manufacturer were to calculate a DF,[21] the DF would be applied to the results of the EDV testing and the result would be rounded to the same numerical precision as the standard. This sum or product (depending on whether an additive DF were added to the raw emission results or a multiplicative DF was multiplied by the raw emission results) is called the certification level. The certification level must be less than or equal to the emission standard in order to be in compliance. Each constituent and standard would be considered separately, and any exceedance of the standards would constitute noncompliance. All EDVs within a test group would have to comply with all their applicable standards (among other requirements) in order to obtain a Certificate of Conformity.

If a manufacturer were to choose the option to base its durability program upon testing EDVs with aged components installed, the results of the emission tests would be considered the certification level (no adjustment is required). As required of manufacturers using DFs, the certification level would have to be less than or equal to the emission standard in order to be in compliance. Each constituent and standard would be considered separately, and any exceedance of the standards would constitute noncompliance. All EDVs within a test group would have to comply with all the applicable standards (among other requirements) in order to obtain a certificate of conformity for that test group.

7. Evaporative/Refueling Emission Testing

The Agency is proposing to retain the current evaporative/refueling testing requirements. One vehicle in each evaporative/refueling family (the worst case EDV with worst case evaporative and fuel tank hardware installed) would be tested for compliance with the evaporative and refueling requirements subject to the phase-in requirements of the applicable model year.

D. Scope of a Certificate of Conformity

The Agency is proposing that certificates of conformity (certificates) be issued for each test group within a durability group. Separate certificates would be issued for each evaporative/refueling family within a test group. Under this proposal, each certificate would be issued for a manageably-sized group of vehicles and for a single set of standards. As discussed in section II. H., a separate application for certification is required for each durability group. Consequently, several test groups (and therefore several certificates of conformity) may be covered with a single application.

The Agency considered issuing certificates with broader coverage. In particular, the Agency considered the manufacturers' proposal to issue certificates based upon fuel used and standards met. Because manufacturers typically certify their product line in a piece-meal fashion, a broad certificate group such as this would require frequent revisions. Also, the complexity of the certificate language would be significantly increased to provide adequate description of all the vehicles covered by such a broad certificate. In balance, the Agency decided that it would be better to issue more certificates covering fewer vehicles than to issue fewer broad-coverage certificates requiring frequent revisions.

[21] The DF may be additive or multiplicative.

E. EPA and Manufacturer Confirmatory Certification Testing

In the current program, the manufacturer performs both emission and fuel economy tests at its own facility and submits the results of that testing to the Agency for review. The Agency has the authority to require another test to be conducted (called a confirmatory test) at a place designated by the Administrator. Currently, the Agency performs confirmatory tests on approximately 30 percent of the entire EDV test fleet, the majority of which are conducted at the Agency's test facility. If EPA chooses to conduct a confirmatory test, the results of the Agency's test become official data, otherwise the manufacturers' data become official results. As discussed earlier, the official results (adjusted by the deterioration factor, if applicable) must comply with the standards to receive a Certificate of Conformity.

In the beginning of EPA's certification program in the 1970's, all certification vehicles (both EDVs and DDVs) had to be tested at an EPA facility. Once the procedures and equipment used for emission measurement improved as the state of the art of emission measurement grew, Agency test results became similar to manufacturer results in most cases. In a progression of changes, the Agency eventually created a confirmatory test program which targeted vehicles which were likely to fail emission standards, contained new technology or presented special concerns, were leaders in their class for fuel economy, or which exhibited higher than expected fuel economy. These vehicles reflected the Agency's concern about accurate emission compliance and fuel economy determinations.

The Agency also established a correlation program involving two elements: (1) round-robin correlation testing of a single vehicle among a series of laboratories, and (2) paired data analysis where vehicles were randomly selected for confirmatory testing at the EPA laboratory. These correlation programs were necessary to assure that the test results conducted at manufacturers' laboratories which were not confirmatory tested by the Agency were representative of the results which would have been obtained if the vehicle had been tested at EPA's laboratory.

In all these programs, the manufacturer ran a single test at its facility and submitted the result to the Agency. A-test vehicle selected for EPA confirmatory testing would be shipped to EPA for testing at the Agency's test facilities.

Confirmatory testing entails several costs for the manufacturer and the Agency. In addition to the expense borne by the Agency for conducting tests, the manufacturer bears additional costs for confirmatory testing at EPA. First, the manufacturer must ship the vehicle (as well as usually transport a technical representative from the company) to EPA's laboratory. For importers, this can represent a significant cost. Also, the test vehicle is not available to the manufacturer for other purposes while the vehicle is in EPA's custody. The second, and most important cost for manufacturers, is the cost in time for the testing to be completed. Altogether, the time needed to transport and test vehicles at EPA can cause a significant delay in manufacturer schedules.

The reasons for confirmatory testing discussed above may be grouped into four categories: (1) tests run to address statistical outliers (e.g., higher than expected fuel economy); (2) vehicles which represent an area of concern which could be addressed by running a second test at any laboratory (such as potential fuel economy leaders and proximity to gas guzzler cut points); (3) correlation concerns about the accuracy of the manufacturer's laboratory (which need to be addressed by testing at another laboratory); and (4) discretionary tests run by the Agency to assure compliance and adequate oversight. Retests of the confirmatory test are conducted when the percentage difference between the original fuel economy test and the confirmatory test is 3 percent or higher or if the results of a test failed the standard.

As part of the discussions with manufacturers during the FACA process, manufacturers suggested that they could perform a number of the confirmatory tests at their own facilities. Ultimately, manufacturers suggested running a manufacturer confirmatory program targeting the first two categories listed above. On balance, the manufacturers determined that the costs of running these additional tests at their facility were more than offset by the savings in time and money by not shipping the vehicle to EPA's test facility.

Based on past experience, the Agency believes that manufacturers are capable of running accurate tests at their own facilities. A good correlation program, including a sufficient level of random confirmatory testing at the Agency's facility, should assure that accurate testing continues at manufacturers' laboratories. Higher than expected fuel economy test results or the accuracy of emission and fuel economy test results near the standard would be addressed through the proposed manufacturer confirmatory test program which requires another test be conducted.

The Agency will maintain its authority to randomly select vehicles to assure proper correlation and to selectively target vehicles for other areas of concern (such as use of new technology). The Agency is proposing that the test results from the original manufacturer's test be submitted to the Agency before any manufacturer confirmatory testing is conducted. The Agency would then indicate to the manufacturer any random or other confirmatory testing which is required. In some cases, the Agency expects that it would be able to identify the vehicles that it wishes to confirmatory test before actual test data are submitted. Vehicle configurations selected for confirmatory testing by the Agency would not be tested under the manufacturer confirmatory test program discussed below. Such vehicles, selected by the Agency for confirmatory testing, would have that testing conducted at a laboratory of the Agency's choice.

The Agency is proposing to require confirmatory testing at the manufacturer's facility when any one of the following five conditions exist: (1) the vehicle version had previously failed a standard; (2) the test exhibits high certification levels (currently set at 90 percent of the standard); (3) the fuel economy value of the test is higher than expected; (4) the fuel economy value is close to a Gas Guzzler Tax threshold value (currently set at +.3 or −.2 mpg from a gas guzzler cut point); and (5) the fuel economy value is at a level which creates a potential vehicle class fuel economy leader based on EPA-provided cut points each year. EPA intends to reduce its confirmatory testing to exclude vehicles selected for those reasons.

The Agency also proposes that manufacturers conduct retests whenever the manufacturer's original fuel economy test result and the manufacturer's confirmatory result fail to correlate satisfactorily. The criteria for satisfactory correlation is proposed to be the 3 percent difference currently used in EPA's confirmatory test program. At the manufacturer's option, the manufacturer may use a lower (e.g. 2 percent) criteria, provided that it is consistently applied to all of the manufacturer's testing. Ultimately, a second retest (total of three confirmatory tests) would be required if the retest of the fuel economy fails to satisfactorily correlate with either the initial confirmatory test or the manufacturer's original test. In lieu of conducting

retests the manufacturer may accept the lowest fuel economy data for the purpose of calculating the fuel economy values. This retesting procedure would assure that representative fuel economy data are generated during the manufacturer-funded confirmatory test program. These retest procedures are the same procedures that the Agency has been employing on EPA retests. Based on this experience, these procedures have been satisfactory at safeguarding the integrity of the fuel economy values at a reasonable cost in terms of additional tests conducted.

The confirmatory tests run by the manufacturer would constitute official tests and would be used in certification compliance determinations and fuel economy calculations.

EPA is proposing to issue a conditional certificate of conformity for a test group, upon manufacturer request and Agency approval, when the confirmatory test selected by the Administrator for testing at the EPA facility has not yet been completed. To be eligible, the manufacturer must attest that any pending confirmatory test would ultimately comply with the standards when actually conducted.

The condition for certification is the same as that for the current "alternate procedure" running change provisions (see 40 CFR 86.082–34). If the Administrator determines that the confirmatory test results in noncompliance with any standard, then upon notification of this determination, the manufacturer would immediately suspend production of all vehicles covered by this certificate (or such fraction of the vehicles covered by the certificate that the Administrator determines to be affected); the certificate of conformity would be suspended upon such notification (pending a hearing). Furthermore, the manufacturer would have to agree as a condition of this certificate to recall all vehicles which the Administrator determines to be in noncompliance with the applicable standards, and to cause such noncompliance to be remedied at no expense to the owner.

As discussed previously, confirmatory testing can add significant time to the certification process. This is especially true for foreign manufacturers which must ship vehicles to the EPA's laboratory in Ann Arbor, Michigan. The proposal made today should mitigate the manufacturers' timing concerns without requiring EPA to waive any selected vehicles from confirmatory testing. EPA believes the risk of non-complying vehicles entering the market is minimal under this proposal because the delay between certification and confirmatory testing would be very short. Moreover, any failing vehicles produced would likely still be under manufacturer control or at dealerships, thus making recall easier.

F. Fuel Economy

1. Conditional Fuel Economy Values Pending Confirmatory Testing

As explained in the previous section, confirmatory testing represents a time and cost burden to the manufacturers. In response to this concern, the Agency has proposed a manufacturer confirmatory testing requirement explained in section II. E. that would reduce the need for Agency confirmatory testing. The Agency is also proposing provisions whereby the manufacturer could obtain a conditional Certificate of Conformity to allow production of vehicles to begin before confirmatory testing at the Agency's facility is completed. For the same reasons, the Agency believes that the use of conditional fuel economy labels would address the manufacturer's concerns surrounding the time involved to perform confirmatory tests, without undermining the accuracy of the fuel economy program.

The Agency is proposing to allow manufacturers to calculate and use fuel economy labels prior to the completion of confirmatory testing selected by the Administrator, provided that several conditions are met. Once the confirmatory testing is completed, the manufacturer must recalculate all the affected fuel economy label values. The recalculated label values must be used for labeling on future production under either of the following circumstances:

(1) If the newly calculated label value is at least 0.5 mpg lower than the original value, the manufacturer must use the recalculated label value and annual fuel cost on the labels placed on all future vehicles produced 15 days, or more, after the completion of the confirmatory test.

(2) If the newly calculated label value is at least 0.1 mpg lower than the original value, the manufacturer must use the recalculated label value to determine Gas Guzzler Tax liability. The tax paid to the IRS must reflect the recalculated value for all vehicles produced. The gas guzzler tax statement required under the current provisions of 40 CFR 600.307–95 (f) to be placed on the fuel economy label shall reflect the recalculated values on all future vehicles produced 15 days, or more, after the completion of the confirmatory test.

All confirmatory test results must be used in CAFE calculations.

As discussed previously, confirmatory testing conducted at EPA test facilities could represent a significant delay. This is especially true for foreign manufacturers which must ship vehicles for testing. The proposal made today mitigates the timing concerns of the manufacturer while still allowing the Agency the authority to conduct confirmatory testing on any vehicle it selects for testing.

The proposal is modeled on the recalculation/relabeling provisions in the current regulations to address the impact of running changes (see 40 CFR 600.314–86). In the current provisions, EPA has acknowledged that there is an inherent variability in fuel economy testing. Consequently, manufacturers should not be liable for small changes in the recalculated fuel economy which round to different label values. The current running change/relabeling provisions established a difference of 1.0 mpg as the threshold for relabeling.

The Agency believes that a 1.0 mpg threshold is too broad a criteria to use for confirmatory testing. The 1.0 mpg threshold was originally established to account for test-to-test variability plus fuel economy differences due to design changes. The 1.0 mpg threshold was also established to allow manufacturers to perform minor design changes without requiring new fuel economy labels.

In today's proposal, the Agency chose 0.5 mpg as the relabeling threshold to account for typical test variability while still holding manufacturers liable for actual overstated fuel economy. Fuel economy label results are rounded to a whole mile per gallon. The 0.5 mpg is half of the precision of the final label results, a threshold which the Agency believes is a fair compromise between test variability and fuel economy accuracy.

The Gas Guzzler Tax is a program where fuel economy differences of 0.1 mpg may cause different rates of tax liability. The Agency is therefore proposing that gas guzzler determinations must be held to that same higher standard. The Agency set the limit at 0.1 mpg because test results are rounded to 0.1 mpg and the gas guzzler tax brackets are based on a tenth of a mpg precision.

2. Directly Submitting CAFE to DOT

The Energy Policy and Conservation Act (PL 94–163 as amended, 89 Stat. 871) establishes requirements that EPA shall prescribe a method to calculate fuel economy and average fuel economy (CAFE) by regulation. EPA is also required to "report any measurements of fuel economy and any calculations of

average fuel economy to the Secretary" of the Department of Transportation (DOT). In meeting the requirements of the statute, EPA established regulations that establish the procedures to be used in calculating CAFE values and require that manufacturers perform these calculations and submit a report to EPA detailing the calculation, the fuel economy tests used, and actual CAFE value calculated. After a review of the information, EPA transmits that report to the Secretary of DOT, who is ultimately responsible for administering the manufacturer's compliance with the CAFE standards.

Based on EPA's experience with reviewing CAFE submissions, most manufacturers submit accurate and complete data. EPA's review of the data rarely results in significant discrepancies, and delays the transfer of the CAFE reports to DOT until EPA review is completed. The Agency is proposing to require manufacturers to submit CAFE results concurrently to the Department of Transportation as well as to EPA, which would enable DOT to begin its administration of CAFE compliance in a more timely manner. EPA would continue to review the manufacturers' CAFE submissions to determine that proper calculation procedures are followed, and would notify DOT of its findings.

3. Fuel Economy Testing Rates

It is anticipated that additional testing may be required to meet the CAFE testing requirements because of reduced testing of EDVs. EPA believes that the additional amount of testing would be small. Also, the manufacturer has the ability to choose which configurations to test to meet the 90 percent sales coverage requirements (see 40 CFR 600.010–86). The Agency has recently expanded its policy [22] allowing the use of analytically derived fuel economy (ADFE) [23] values to include up to 20 percent of the manufacturers' total fuel economy fleet. The Agency believes that through careful selection of the vehicle configurations to be tested and use of ADFE values, the amount of additional testing required for fuel economy purposes would be small.

The Agency considered raising the amount of ADFE allowed from the recently established level of 20 percent but felt that such a change might undermine the accuracy of the fuel economy program. The Agency does invite public comment on the appropriate level of ADFE testing and analyses of the potential impact on fuel economy accuracy.

G. Small Volume Provisions

Current regulations allow for more abbreviated certification procedures for manufacturers with model year sales of less than 10,000, and for engine families totaling less than 10,000 sales for any manufacturer.[24] EPA is proposing to amend the criteria for the small volume manufacturer provisions to model year U.S. sales of less than 15,000 (including light-duty vehicles, light-duty trucks, and heavy-duty engines). Similarly, EPA is proposing to allow any manufacturer to apply small volume certification procedures for any test groups, provided that the combined U.S. sales are below 15,000 units per model year.

All abbreviated certification procedures in the current regulations would be available to the redefined small volume manufacturers and test groups (below 15,000 sales). (However, under this proposal, manufacturers would certify based on test groups rather than engine families.) Also, any certification options provided under CAP 2000 for large volume manufacturers would be available to small volume manufacturers (e.g., bench-aged components for durability, etc.).

EPA is proposing to require in-use verification testing for manufacturers of greater than 5,000 sales for any model year, and for test groups using small volume provisions that have greater than 5,000 U.S. sales per model year. For manufacturers and test groups in these categories, the manufacturer would have to test at least two vehicles after four years of use and at least 50,000 miles of service. These vehicles may be procured from customers or may be vehicles under the control of the manufacturer as long as the service accumulation and maintenance of the vehicles are shown to be typical of customer usage. The vehicles selected for this testing would be at least one from the highest sales small volume test group, and one from the next highest sales small volume test group. If there is only one test group, then the manufacturer must test at least two vehicles from the test group. EPA could waive the 50,000 mile minimum if the manufacturer shows, using owner survey data, that the average mileage accumulated after 4 years for a given test group is less than 50,000 miles. The manufacturer must submit an in-use testing plan to EPA prior to EPA issuance of a Certificate of Conformity for the subject vehicles.

H. Information Requirements

1. Background

Current regulations require manufacturers to submit an Application for Certification (Application) for each engine family that describes the vehicles the manufacturer intends to produce. After reviewing the application to determine compliance with all applicable requirements and emission standards, EPA then issues a certificate of conformity under § 206 of the Act. Such a certificate is required by the CAA before a vehicle may be offered for sale in the U.S.

When EPA's vehicle certification program began in 1968, EPA required manufacturers to submit a large amount of detailed information. This was because EPA lacked a historical perspective of what vehicle parameters could impact emissions compliance. EPA would carefully review all of this information prior to certification. By the 1980's, EPA had gained enough experience to feel comfortable that such an extensive review was no longer necessary. Consequently, the review was scaled back to more of an audit function, that is, a spot check of the Application information. At the same time, EPA also permitted manufacturers to retain some information, rather than submit it with the Application. In today's proposal EPA believes that it may further decrease the amount of Application information without compromising its ability to make good certification compliance determinations.

In addition to submitting the application prior to certification, manufacturers are currently required to notify EPA of any changes throughout the model year to vehicles already certified (running changes). This notification must be submitted with each running change, and must describe any changes (e.g. deletions, insertions, additions) to the original application pages. Frequently the updated information is not critical for certification compliance determinations, but is needed for future in-use compliance efforts. The paperwork burden associated with the reporting of running changes is, in the Agency's opinion, another good candidate for streamlining. EPA is therefore proposing to allow manufacturers to submit running change information closer to the time when it is actually needed by the Agency.

[22] EPA guidance letter CD–95–08(LDV), dated May 12, 1995 entitled "Analytical [sic] Derived Fuel Economy (ADFE)"

[23] 40 CFR 600.006–89(e).

[24] Ref. 40 CFR 86.094–14.

2. Overview of New Information Requirements

EPA estimates that this proposal will reduce the record keeping and reporting requirements of EPA's light-duty vehicle compliance program between 13% and 57%.[25] To accomplish this, the application would only contain information that is routinely needed by the Agency, some of which is needed to make initial certification decisions and some which is needed to conduct EPA's various post-certification compliance programs. Therefore, it is being proposed that information be submitted to the Agency at two different times; Part 1 of the Application would be submitted prior to certification and Part 2 would be submitted by January first of the applicable model year (e.g. a model year 2001 Part 2 Application would be due by 1/1/2001). Any updates to the Part 1 would also be due by January first of the model year.

A final, end-of-model-year Application update would be due by January first of the following model year (e.g. the final Application update for model year 2001 would be due by 1/1/2002). This would include any updates to Part 1 and Part 2 of the Application necessary to reflect any running changes which occurred since January first of the model year. Information not previously submitted that might be needed by the Agency from time to time would be required to be submitted upon request.

Part 2 and any updates to Part 1 of any test group certified fewer than 30 days prior to January first of the applicable model year would need to be submitted within 90 days of the effective date on the corresponding certificate of conformity (e.g. if a test group was certified on December fifth, Part 2 would be due by March fifth). A manufacturer may request the Agency to grant, for extenuating circumstances, an extension of the end-of-model-year submission beyond the normal due date of January first of the following model year.

A goal of today's proposal is to streamline the information reporting requirements to the greatest degree possible while still retaining access to information necessary to run the certification and in-use programs. Therefore, the information proposed to be submitted is of critical importance to the Agency. This makes it incumbent upon the manufacturer to submit all required information by the proposed due dates, including any Agency requests for additional information not required to be submitted to the Agency with either the Part 1 or Part 2 Application. A manufacturer delinquent in reporting or failing to provide complete and accurate information may be subject to such penalties as: requiring the manufacturer to submit all information for all test groups prior to being granted any certificates of conformity for subsequent model years (this would include Part 1, Part 2 and any additional information as deemed necessary by the Agency); voiding ab initio the applicable certificate of conformity; and formal enforcement action, including civil penalties.

EPA would determine when the manufacturer subject to an information penalty would again be allowed to submit only the Part 1 Application to receive a certificate. EPA has already implemented a similar approach in the current certification program, whereby the "Abbreviated Certification" process can be denied to a manufacturer that cannot handle the additional responsibility. EPA believes that continuing this approach for failure to submit information would provide a simple, yet effective means of encouraging manufacturers to comply with the information reporting requirements.

3. Detailed Descriptions of Application Requirements

a. The Part 1 Application. EPA is proposing that the Part 1 Application be much abbreviated from that currently required. EPA believes that many of the more detailed, lengthier items included with the current Application such as technical descriptions of emission control components, part numbers, and calibration specifications are not normally necessary to make a certification decision. By eliminating these items from Part 1, and requiring only information essential for certification, the information which must be submitted to the Agency would be much shorter and easier for manufacturers to compile.

Another voluntary mechanism is currently in place which serves the purpose of providing EPA with certification information—the manufacturer preview meeting. Most manufacturers have been providing EPA with a pre-certification overview of their upcoming model year plans. These annual certification preview meetings provide EPA with a manufacturer's certification and production schedules, durability and emission test plans, special test procedures, carry-over requests, new vehicles or technology, and compliance plans for new standards or test procedures. Manufacturers prepare very informative materials that often provide a greater understanding of their product line in a shorter time than would be possible from reviewing a current Application. These meetings help EPA expedite the certification process by enabling EPA to anticipate compliance issues before they might cause unanticipated delays. Because these previews necessarily take place far in advance of certification, the information provided must be considered as tentative, and not a substitute for the Application. Hence, EPA does not feel it appropriate to require manufacturers to conduct preview meetings. However, EPA strongly encourages manufacturers to continue the practice under CAP 2000, as a means to expedite the certification process.

EPA is proposing that one Application be submitted for each durability group. Part 1 consists of general information about the manufacturer and the entire product line, durability group descriptions, evaporative/refueling family descriptions, OBD information and information specific to each test group.

General information is information which is applicable to all durability and/or test groups and which only has to be submitted once per model year. Such information will typically consist of communications information about manufacturer representatives authorized to communicate with EPA, manufacturer phase-in compliance plans (if any), descriptions of evaporative/refueling families, OBD information and statements of compliance.

For *durability group and evaporative/refueling family descriptions*, the manufacturer would be required to provide a description of how each group/family was determined and the type of process used to establish component durability and deterioration factors. Because of the broad definitions for durability groups, EPA anticipates that durability groups would most likely consist of more than one test group and that test groups might be certified at different times throughout the model year. Similarly, evaporative/refueling families would cut across test groups. Therefore, EPA is proposing that the durability information would only need to be submitted with the first test group to be submitted to the Agency and would not need to be resubmitted for subsequent test groups within that durability group or evaporative/refueling group.

Specific *test group information* is proposed to consist of the associated evaporative/refueling family (or families), a list of all auxiliary emission

[25] See EPA cost analysis.

control devices (AECDs) that reduce the effectiveness of the emission control system including descriptions and justifications, a summary of all vehicles to be produced within the test group, OBD information, test vehicle selections and descriptions (including any use of carry-over or carry-across test data), official certification emission test results, and a letter requesting a certificate.

The *request for a certificate* would be required to be signed by a corporate principle representative. This request would notify the Agency that a test group is ready to be certified and must state that all testing and other actions required under the regulations were performed and that all required information has been submitted to EPA. The request must also include the required statements of compliance.

The proposed *product line summary* would include descriptions of all vehicle configurations to be produced within each test group which would allow an in-use vehicle to be identified and tested for emissions purposes. This would include items such as model name, sales area, engine displacement, tire size and make, engine codes, transmission, and basic test parameters (such as test weight and road load force information). Ranges for the tires and test parameters may be submitted with the initial Part 1 Application, although the actual values would need to be submitted with Part 2 Application. EPA will issue guidance establishing a suggested format.

This proposal would not change current *OBD information* requirements. The Part 1 Application must include for each diagnostic system: a description of the functional operation characteristics of the diagnostic system, the method of detecting malfunctions for each emission-related powertrain component, and a description of any deficiencies-including resolution plans and schedules. A test group certified to California OBD 2 regulations would be required to comply with California ARB information requirements. EPA may consider abbreviating the OBD information requirements at such time in the future when it gains confidence that manufacturers are designing OBD systems that are fully compliant with all applicable regulations.

b. The Part 2 Application. The information that is proposed to be included in the Part 2 Application is information which is primarily needed by EPA for post-certification compliance purposes. Part 2 would be due on January first of the applicable model year (e.g. the deadline for model year 2000 would be 1/1/2000). Historically, most certification activity and production startups are completed by this time.

Part 2 is proposed to include part numbers of each emission related component for each engine code, certain calibration specifications, owners manuals, service manuals and technical service bulletins. All of this information will continue to be necessary for the Agency to perform its in-use activities such as identifying mis-builds (non-certified vehicle configurations), evaluating manufacturer defect reports, and conducting in-use recall testing programs. This information is not needed with the Part 1 Application since EPA's in-use activities do not begin until customer-owned vehicles have begun to accumulate in-use mileage. A description of what would be required with the Part 2, as well as explanations for why EPA needs this information, follows.

EPA is proposing that *calibration summary information* be submitted for each engine code such as fuel pump flow rate, EGR valve flow rate, tune up specifications, and oxygen sensor output. EPA would issue via separate guidance a suggested format to ease the submittal and review of this calibration summary information.

Owners manuals, service manuals and technical service bulletins would need to be submitted to the Agency as soon as they become available but no later than the Part 2 due date.

Manufacturers are required per 40 CFR 85, Subpart T to submit an Emission Defect Information Report (defect report) any time that an emission related defect exists in 25 or more vehicles of the same model year. The defect regulations point to devices, systems or assembly "described in the approved Application for Certification". Because the proposed Application is much abbreviated, the Agency fully intends to consider any information submitted or required to be submitted in Parts 1 and 2 as constituting being "described in the Approved Application for Certification." for the purposes of 85.1902(b). This includes, but is not limited to part numbers, service manuals and other descriptive information provided by a manufacturer to comply with the proposed certification requirements.

The Agency also uses the information in Part 1 and Part 2 (including owners manuals, service manuals, and technical service bulletins), to target specific vehicle classes to test in use, to procure customer vehicles, to reset the vehicles to manufacturer specifications before testing, and to determine the cause of an emission exceedance when in-use vehicles fail to comply with the emission standards. EPA also uses this information to determine if all the vehicles in the durability or test group can be expected to have the same problem or if the problem might exist in several durability or test groups.

c. Running Changes. As was mentioned previously, changes are often made to vehicle production plans throughout the model year. Manufacturers are currently required to submit all updated Application pages with each running change notification. Manufacturers currently have the option to either request EPA approval of changes in advance of implementing the change, or to concurrently notify EPA and make the change, with the caveat that EPA may not approve the change. This second option is commonly referred to as the "alternate procedure running change" and is located at 40 CFR 86.082–34. Under CAP 2000, EPA is proposing to adopt only the alternate procedure running change. Manufacturers would continue to be required to notify the Agency of all running changes concurrently with implementation of each change, but would not be required to submit any updated application pages until January first of the applicable model year. This was suggested during discussions of the Compliance Work Group of the Mobile Sources Technical Advisory Sub-committee (part of the FACA CAA Advisory Committee). EPA is proposing this suggestion since the information which is typically effected by a running change would now be submitted with the Part 2 Application, after implementation of most running changes. A final, end of the model year Application update would also need to be submitted. The manufacturer may opt to submit only the updated pages, rather than resubmit a complete Application. No changes are being proposed to the Agency's current process for reporting field fixes.

Each running change notification is proposed to include a detailed description of the change, the reason for the change, the portion of the product line that is affected by the change, and the effect the change would have on emissions (both on and off the FTP and SFTP driving schedules), including, as appropriate, any test data that demonstrates compliance with applicable emission standards. This information would modify the description of the vehicles covered by the certificate of conformity with respect to vehicles manufactured after the date of the running change. It is also being proposed that a running change summary log be submitted for each test

group showing all changes that have been incorporated since certification. EPA believes the revised running change proposal should provide significant savings to manufacturers and the Agency.

While manufacturers are encouraged to notify EPA of any mistakes made in the application or running change notice, a manufacturer may not update its application to correct a misbuild situation with respect to vehicles already introduced into commerce.

4. Information to be Submitted Upon Request

As has been mentioned above, much of the information which must currently be submitted in the Application is only rarely needed by EPA. Thus EPA believes it is appropriate to collect some information on an "as needed" basis. This includes many of the more detailed items, such as detailed calibration information and the basis used by manufacturers to make certain decisions. EPA is proposing to require that any "as needed" information requested by EPA be submitted within 15 working days. EPA is aware that some manufacturers have indicated that they, as a precautionary measure, maintain virtually all information which EPA may request. However, EPA is not proposing to require manufacturers to keep special compilations of information designated for EPA use alone. EPA believes that the information it would be requesting would be the type that manufacturers would keep on hand for other reasons, and which could be retrieved within 15 working days. Further, such "as-needed" information would not have to be submitted in any EPA-prescribed format.

5. Electronic Submission of the Application

EPA currently utilizes an electronic computer database, referred to as Certification and Fuel Economy Information System (CFEIS), which contains vehicle descriptions and certification emission test results submitted by the manufacturer. Although CFEIS is designed around the current certification program, it is expected that CFEIS would be redesigned in accordance with the final CAP 2000 program. EPA believes that CFEIS would continue to play an important role under CAP 2000, as many of the items within the proposed Application are already being submitted into the CFEIS database. Any required Application information which has been completely and accurately submitted into CFEIS would not have to be re-submitted separately in hard copy.

EPA would continue to encourage, but would not require manufacturers to submit the Application electronically. EPA believes electronic submissions would provide even greater savings for both manufacturers and EPA by simplifying the process of updating, storing and disseminating information. Confidential information could be submitted in hard copy or in a separate electronic file to help ensure its confidentiality. EPA encourages any manufacturer wishing to submit an electronic version of their Application to do so, with the only condition being that the format be compatible with EPA software. EPA would work with any manufacturer to help develop procedures for submitting electronic information.

I. In-Use Testing

1. Overview

One of the major goals of the program being proposed today is the redirection of industry and Agency resources from pre-production certification to focus on improved in-use emissions performance. Accordingly, the regulations proposed today would require manufacturers, under the authority of section 208(a) of the Act, to provide EPA with emission test data on a specified number of in-use vehicles, procured and tested at the manufacturer's expense (either via a contract test facility or by the manufacturer's own laboratory). The proposed program consists of two basic categories of manufacturer-funded in-use testing: (1) in-use verification testing of vehicles representing virtually all of the test groups produced by each manufacturer in each model year and, (2) in-use confirmatory testing consisting of additional, more rigorous, testing of test groups or subsets of these test groups (limited to transmission types) which, in the in-use verification testing, demonstrated potentially high emissions.

2. In-Use Verification Testing

This element of the proposed program, identified as the "In-Use Verification Program" (IUVP) is based upon EPA's "in-use reality check "currently required in the alternate service accumulation durability regulations at 40 CFR 86.094.13 (RDP 1), and would replace that program. The purpose of the IUVP is to provide the Agency and the industry with emission data feedback from vehicles driven under real-world conditions. The data generated from the IUVP would be used to assess and improve the effectiveness of the manufacturer's certification durability and emission demonstration processes. In addition, the IUVP data would be used to determine the need for further manufacturer funded in-use testing (In-Use Confirmatory Testing) which could be used by the Agency in determining non-conformity under Section 207(c) of the Act.

The basic elements of the proposed IUVP are low mileage (10,000 mile minimum vehicle mileage, approximately one year of operation) and high mileage (50,000 mile minimum mileage and approximately four years of operation) emission testing of in-use vehicles. These mileage and age test points were selected to provide feedback to the Agency and the industry on the emission performance of vehicles at both an early point in their operating life (to allow early identification of any problems which occur in production or early in the life of the vehicle to minimize the emission impact of the defect or deficient design), and at a point well into the vehicle's statutorily-defined useful life (to identify and correct any problems which occur only after extended in-use operation) but not at such a high mileage that high emitting vehicles would not be identified until the end of their useful life. The total number of vehicles a particular manufacturer would be required to test for the IUVP under the requirements of this proposal would be dependent upon the number of test groups in the manufacturer's product line and the number of sales within those groups. The sample sizes required for the low and high mileage test programs and test group sales volumes are intended to reflect the increased potential for emission contribution by high production test groups, the increased likelihood of problems occurring as vehicles reach higher mileage, and the desire of the Agency to minimize the resources required to conduct the program.

Additionally, EPA is proposing that a manufacturer may increase the required sample size specified for a specific IUVP test group sample with prior EPA approval prior to the initiation of the additional testing. The Agency believes that prior approval of an increase in sample size is needed to prevent the unrestrained addition of vehicles which could mask or dilute potential emission problems. EPA seeks comment on the proposal for sample size flexibility and the associated process.

EPA is proposing that the vehicles tested in the IUVP be procured following the vehicle selection and procurement protocols described in the proposed regulations. The procedures and protocols being proposed are

intended to meet the Agency's goals of testing vehicles in the In-Use Verification Program which have experienced typical real-world use and maintenance while screening out only those vehicles which are tampered, unsafe to test, or are in such a condition that restoration to a condition suitable for testing would be too costly. To preclude underestimating the emissions of the in-use fleet through possible climate related bias (the Agency believes vehicles operated primarily in warm weather areas may be subject to less harsh durability conditions than those operated in cold weather), EPA is proposing that a certain number of vehicles in each sample be procured from above 40 degrees N. latitude (about the northern half of the United States).

EPA is also proposing to require that manufacturers perform an analysis to determine if their certification durability processes are still capable of accurately predicting in-use performance, should the IUVP data from a test group sample at either the low or high mileage test point exceed certain criteria. This aspect of today's proposal is discussed in more detail in section II.B.

A full description of the requirements of the In-Use Verification Program is found in § 86.1841–01 of today's proposed regulations.

In addition to the various elements of the IUVP proposal described above, EPA is also requesting comment on several other elements set forth in proposed regulation and described below.

a. Small Volume Manufacturers and Small Volume Sales. EPA believes manufacturers with very small U.S. sales volumes may have difficulty procuring in-use vehicles for the proposed in-use testing. First, the small population of vehicles makes procurement difficult. Second, many of the small volume vehicles comprise a specialty, high-end market, and owners may be disinclined to participate, regardless of the incentives provided to encourage participation. Larger manufacturers with test groups of small actual U.S. sales volumes may encounter similar difficulties. Therefore, EPA is proposing to decrease and, in some cases, eliminate the requirement to perform the in-use testing being proposed for those manufacturers meeting the prescribed sales criteria. A cap on the total number of vehicles allowed to be considered under small volume provisions (15,000 units) has been proposed for large volume manufacturers to prevent the circumvention of the in-use testing requirements by the purposeful creation of small test groups. The proposal for decreased testing by small volume manufacturers or for small volume test groups of larger manufacturers (two vehicles tested at the high mileage test point only, and permitting the test vehicles to be manufacturer-owned vehicles) at certain sales volumes (5001–15,000)reflects EPA's belief that in-use feedback is critical even in the case of smaller volume sales. At the same time, the proposal addresses the potential difficulties which could be associated with procuring such vehicles from private owners. Tables 1 and 2 in the proposed regulations set forth the number of vehicles to be tested for each test group as a function of the number of vehicles sold within each group.

b. Alternative Fueled Vehicles. Vehicles certified to alternative fuel standards (for example, methanol or compressed natural gas) would be subject to the proposed in-use verification regulations. However, based on current production numbers, these vehicles would likely fall under the "small volume" considerations, and thus would be exempted from in-use testing. These vehicles would be subject to the program requirements applicable to higher sales groups if their sales volume were to increase above the low volume limits.

c. Carryover of In-use Data. Today's proposal would not allow manufacturers to carry over (that is, re-use) in-use verification test data from one model year to the next. The purpose of the IUVP is to collect real-world data on actual in-use cars. Allowing manufacturers to represent current or future model years in-use performance with data from previous model years fails to satisfy this purpose. First, EPA believes vehicles are almost never identical in terms of design, materials, and component suppliers from one model year to the next; even within a model year manufacturers frequently perform running changes, allowable under both the current and proposed regulations, that may have an undetermined impact on in-use performance. Second, driving patterns and climatic and fuel conditions that may impact in-use deterioration may fluctuate from year to year or change over time. By allowing manufacturers to carry over previous model year in-use data, the effects of any such trends or fluctuations would not be measured; the carried-over in-use data would merely provide a "snapshot" of the conditions of a single year rather than the desired "real-time picture" of in-use conditions over a number of years. In its cost analysis, EPA has accounted for the cost to manufacturers of running the IUVP every model year, with no allowance for in-use test data carryover. As shown in this analysis, the cost for the IUVP would be offset by the savings gained in the certification program, in which carryover of durability and emission data is allowed.

d. Required In-Use Verification Testing. Vehicles are required to meet the applicable emission standards when in actual use. As of model year 2000, emission standards will exist for tailpipe emissions as measured by the "Federal Test Procedure" (FTP) at low and high altitudes, supplemental FTP (SFTP), cold CO, evaporative/refueling emissions and onboard diagnostics. Because EPA believes the supplemental FTP is an integral part of the FTP, EPA is proposing that the FTP and supplemental FTP be performed for each in-use vehicle tested. To lessen manufacturers' test facility burden for in-use SFTP testing (which may require the use of an environmental test chamber), the Agency is proposing that only the US06 high speed cycle be performed for the in-use verification program. Manufacturers would determine the composite in-use SFTP emission level by combining the in-use US06 and in-use FTP test levels with the test level from the pre-production certification air conditioning test (without deterioration factors applied).

In addition to the FTP/SFTP exhaust emission testing, EPA proposes that the evaporative/refueling emissions procedure be performed on the basis of the vehicle's evaporative/refueling family, rather than the vehicle's test group. EPA is proposing that a manufacturer perform a single in-use evaporative test and on-board refueling loss test per evaporative/refueling family at both the low and high mileage test points. There are currently ongoing evaporative test streamlining efforts between EPA, California ARB and industry which are separate from today's proposal. EPA intends to adopt the resulting procedure for the in-use evaporative testing once it becomes available.

Because the cold CO standard is a 50,000 mile standard and the minimum mileage requirement associated with the IUVP high mileage testing requirement (50,000 miles) would likely result in in-use vehicles with mileage beyond this compliance liability limit, EPA is proposing not to require manufacturers to conduct a cold CO test for purposes of the IUVP. Instead, the Agency would continue to perform in-use evaluations of cold CO performance as part of its routine in-house in-use compliance program.

Because EPA's emission standards currently apply at high altitude as well

as low altitude, EPA is proposing that one vehicle per test group be tested under high altitude conditions for FTP. EPA is proposing to require this testing only at the high mileage test point in order to minimize the expense and facility constraints, if any, associated with this testing.

e. In-Use Test Facility Correlation. Traditionally, EPA has verified the ability of manufacturers' test facilities to provide precise, accurate, and reproducible results by comparing certification test data generated at EPA's Ann Arbor, Michigan facility to the data generated at the manufacturers' facilities. Additionally, most, if not all, manufacturers have participated in voluntary "round-robin" correlation testing programs whereby a single vehicle is tested at a number of facilities, thus checking the correlation of many laboratories. EPA has never specified regulations requiring a level of correlation; rather, the regulations in 40 CFR Subpart B specify the accuracy and precision of the test equipment and procedures to be used in emission testing which, if adhered to, should result in an acceptable level of correlation. The same correlation procedures would apply to the IUVP. As EPA's existing approach to correlation has worked well for the past 20 years, EPA is planning to apply the same basic approach for this program.

3. Impact of IUVP on Other EPA Mobile Source Programs

The IUVP program is not designed to replace EPA's existing compliance programs. Rather, it is designed to improve the effectiveness of the existing programs by vastly increasing the quantity of in-use emission data available while decreasing the resources directed toward pre-production certification. Nevertheless, the generation of IUVP data would, to a greater or lesser extent, impact each of EPA's existing compliance programs as discussed below.

a. *Recall Program:* Today's proposal does not change the Agency's current recall program regulations. However, the data made available by the proposed IUVP would enhance the recall program by enabling EPA to better focus Agency testing on potential recall candidates.

b. *Emission Factors:* The IUVP data would supplement the Agency's emissions factor program's database of in-use vehicle emission performance used for assessing current and projecting future mobile source impacts on air quality.

c. *Certification:* IUVP data would provide a real-world picture of the effects of time and mileage on emission performance, which can be compared to the durability demonstration required to be made at the time of certification. The data would also be used to determine if improvements to manufacturers' durability processes are needed, as discussed in section II. B.

d. *Selective enforcement audits (SEA):* The Agency has the statutory and regulatory authority to test new production line vehicles to determine if the vehicles produced by a manufacturer conform with the regulations with respect to which the certificate of conformity was issued.[26] The IUVP proposed today has an element requiring all but the smallest volume manufacturers to test in-use vehicles in the first year of service at low mileage (10,000 miles or less). It is anticipated that this low mileage in-use testing element of IUVP would to a large degree replace the need for assembly line testing. However, because many small volume manufacturers would not be performing in-use verification testing, the Agency believes that SEA regulations should be retained as a discretionary alternative compliance tool. Also, should the low mileage IUVP test data from the large volume manufacturers or other data sources indicate a chronic low mileage problem such as consistently high emissions or On-Board Diagnostic (OBD) problems, the Agency may choose to perform an SEA to ensure compliance.

4. Manufacturer Funded In-Use Confirmatory Testing

Today's proposal also includes regulations which would create a manufacturer funded in-use confirmatory testing program. This program would require manufacturers to conduct additional testing of a test group when the IUVP data for the test group exceeds a specified trigger level. Additionally, EPA is proposing that the Agency could require testing of a transmission-type subset of a test group if emissions shown by the entire test group sample meet the specified triggering criteria.

The proposed criteria that would trigger confirmatory testing are based upon the emission standards to which the test group was originally certified. The proposed criteria (a mean of 1.3 times the standard with a 50 percent or greater failure rate for the test group sample at either the low or high mileage test point) was derived after considering the purpose of the confirmatory testing (generation of test data to determine the need for a remedy of classes which do not conform with the applicable standards under the provisions of 207(c)); the fact that the IUVP data is based on vehicles essentially unscreened for maintenance and use history, thereby necessitating some allowance for possible maintenance and use effects; the trigger point (1.5 times the standard) of the OBD systems which would be present at the time this proposed regulation would go into effect; and the desire (again recognizing the nature of the test vehicle procurement criteria) that manufacturer funded confirmatory testing not be required based on poor performance by only a small percentage of the test group sample. The results of the high altitude and evaporative/refueling emission testing, because they would be limited to one vehicle per test group or evaporative/refueling family respectively, would not trigger manufacturer-funded confirmatory testing. They would instead being used as a means of focusing Agency and industry attention on in-use problems that warrant additional attention in EPA's recall program and/or by the manufacturer.

The Agency intends to periodically review and, if necessary, revise these criteria, and intends to do so after it has gathered sufficient information to support any revisions.

It is the Agency's expectation that the data generated in the proposed manufacturer funded in-use confirmatory test program would be based on vehicle samples and on test practices and procedures upon which a non-conformity determination under Section 207(c) of the Act may be based. EPA believes that manufacturers would consider it to be in their best interest to design test programs which both the Agency and the manufacturer are confident accurately reflect the emission performance of properly maintained and used vehicles within their useful life. The Agency expects that manufacturers would act responsibly and voluntarily to correct emission problems identified in either the IUVP or manufacturer funded in-use confirmatory program; nonetheless, it is the Agency's intent that the data generated in such confirmatory programs be of sufficient quality that the affected manufacturer has confidence in the emission results shown and that the Agency can utilize the data, if the test group's emission performance warrants, to determine whether a substantial number of the vehicles in a class do not conform with applicable standards when properly maintained and used.

The Agency believes that it would be beneficial to both the Agency and

[26] Clean Air Act section 206(b); 40 CFR Part 86, Subpart G.

industry if, prior to initiation of a manufacturer-funded in-use confirmatory test program conducted under these regulations, the Agency and the relevant manufacturer agree, to the extent possible, upon the vehicle procurement, maintenance and testing procedures (not otherwise specified by regulation) which would be used by the manufacturer in conducting the confirmatory testing. The Agency would encourage the establishment of such "up-front" agreements as EPA believes that it would decrease the likelihood of post-testing disagreements pertaining to the validity of the testing, thus facilitating the expeditious resolution of any action indicated by the test data. In cases where the Agency and a manufacturer reach agreement prior to a program on the practices to be used in the confirmatory test program, the Agency will not contest the use of those practices subsequent to the program.

A full description of the proposed in-use compliance program requirements is found in §§ 86.1841–01 through 86.1843–01 of the proposed regulations. EPA requests comment on any provision within these proposed regulations.

J. Fees

Background

EPA has been collecting fees to recover Agency costs for its motor vehicle compliance activities since the 1993 model year. The final rule promulgating fee regulations was published in the **Federal Register** on July 7, 1992. The regulations are contained in 40 CFR Part 86, Subpart J. Today's proposal impacts only light-duty vehicles and light-duty trucks.[27] The fee regulations are proposed to be modified as described below.

Collection on test group basis

The current fee program assesses fees on the basis of "certification request type". Because certificates of conformity are currently issued for each engine family/emission control system combination, this has been the basic unit for fee collection. Because today's proposal eliminates the unit of engine family/emission control system combination as the certification basis for light-duty vehicles and light-duty trucks, a new base unit upon which to assess fees is needed.

To retain consistency with the current fee assessment procedure, EPA is proposing to continue collecting a fee on a per-certificate basis. Because the test group would be the unit receiving a certificate, a fee would be collected for each test group to be certified. In the 1996 model year EPA issued 400 certificates, with a separate fee collected for each engine system combination. For CAP 2000, EPA estimates that there will be approximately 320 test groups per year, resulting in 20% fewer fee submissions.

Fee Cost Analysis

EPA established the current fee provisions in a rule issued in 1992, 57 FR 30055 (July 7, 1992). That rule was based in large part on a 1991 cost analysis that the agency prepared. Since that time there have been several changes in the costs of the Motor Vehicle and Engine Compliance Program, such as increases due to inflation and additional costs related to performing tests using procedures not in effect in 1991, including supplemental FTP, enhanced evaporative and onboard vapor recovery. EPA recognizes that the 1991 cost analysis is in need of updating, but the best time to do a comprehensive reevaluation would be after the implementation of the CAP 2000 changes and the test procedure changes noted above. This would allow a more accurate and complete analysis of the combined effects of the changes since 1991. The revisions to the fee provisions proposed today are therefore based solely on the revisions proposed for CAP 2000, using the 1991 cost analysis as a starting point.

This approach is reasonable for various reasons. The types and the amount of work the Agency performs for certification and fuel economy compliance is not anticipated to change much as a result of today's proposal. The individual elements contained in the original 1991 fee cost analysis continue to be applicable. The EPA costs for confirmatory testing, certification compliance, fuel economy compliance, and in-use compliance are still appropriate as a starting point, pending any future update. A few exceptions which will change the EPA costs under this rule are a lower EPA certification confirmatory testing rate, lower EPA resources in administering the pre-production certification program, and a new element of EPA resources in administering the in-use verification testing program.

EPA's resources for SEA are anticipated to be very low, because, as stated in section I.3. above EPA will instead utilize the low-mileage in-use verification testing performed by manufacturers to provide an early indication of the ability of production vehicles to comply with the emission standards.

The current fee analysis includes a cost of $1,947,600 for confirmatory certification tests performed by EPA. EPA plans to reduce its confirmatory testing by 50 percent, which translates to a total dollar reduction of $973,800. The new EPA efforts for administering the manufacturer-run in-use verification test program will consist of creating and maintaining a new database, making administrative decisions as required by the proposed regulations, performing analyses of the data, and overseeing any corrective actions resulting from the outcome of the analyses. Because of the broad scope of the in-use verification program (proposed to be performed for every test group for all but the smallest manufacturers), EPA plans to redirect part of existing staff currently working on SEA, confirmatory testing, and certification activities to the new EPA activities related to this rule, namely administering the manufacturer-run in-use verification test program. EPA estimates that the additional EPA personnel cost of administering the new in-use program will be offset by the savings from SEA, certification, and confirmatory testing programs. However, EPA is anticipating a net reduction in EPA laboratory costs as a result of the 50 percent reduction in confirmatory tests. As a result, the total EPA costs are proposed to be reduced by $973,800.

The proposed new fee schedule has been calculated by using the original $9.4 million costs of baseline expenditure and reducing it by $973,800 to account for the reduced amount of confirmatory testing under CAP 2000. The figures from the fee cost study were adjusted accordingly in two places. The Table 1 figures were adjusted to reflect the reduced confirmatory testing amount. The Table S–2 figures were adjusted to reflect the reduced number of the certification requests, based on the 20% fewer test groups than engine family/emission control system combinations. The fee schedule for LDVs and LDTs is proposed to be revised as follows:

Federal signed: $27,211
California only signed: $ 8,956
Fed only unsigned: $ 2,738
Cal only unsigned: $ 2,738

While these fees are for the most part numerically higher than those currently assessed for each engine family/control system combination, each manufacturer would have 20% fewer payments; thus no payment increase in the aggregate should occur. The aggregate fees

[27] The fees charged for heavy-duty vehicles, heavy-duty engines, and motorcycles remain the same because they are not affected by the compliance procedures being proposed today. Any changes to these fees will be addressed in separate rulemakings.

collected would be $973,800 less than the current fee program. EPA is proposing to retain the waiver provision in the current fee regulations when the fee exceeds 1% of the aggregate projected US sales of vehicles covered by the certificate (40 CFR 86.908–93).

As with the current fee program, the proposed new fee includes all EPA costs for evaporative/refueling certification and fuel economy compliance activities. This practice reduces burden on both EPA and manufacturers by limiting the complexity of the fee schedule and combining like costs under the test group category.

K. Reorganization of Compliance Regulations

1. Overview.

The proposed regulatory language in today's action is located in a new Subpart S of Part 86. An outline of regulations in Subpart S is located at the beginning of the proposed regulatory language. Previously, most of the emissions compliance regulations were contained in Subpart A, including emission standards and compliance procedures for light-duty vehicles, light-duty trucks, heavy-duty vehicles and heavy-duty engines. The numbering system used in this subpart has become more difficult to use as new language has been added and old language revised.

The Agency considered completely re-writing and re-numbering Subpart A. This would entail renumbering every section and paragraph, as well as renumbering the hundreds of cross-references to Subpart A, both within this and other Subpart in Part 86 as well as other Parts of the CFR. The new language resulting from today's proposal would need to be inserted, and any cross-references to the new language would have to be changed.

The Agency decided to create a new Subpart for today's proposal for the following reasons:

1. The compliance regulations proposed today are significantly different than those contained in Subpart A.

2. The federal government initiative to streamline regulations can be honored by phasing out those portions of Subpart A as the applicable model years expire, eventually leaving only applicable regulations.

3. Compliance procedures and emission standards for heavy duty vehicles and engines (which are significantly different from those of light-duty vehicles) would be self-contained in Subpart A.

4. The Agency would be spared the time-consuming process of identifying and changing every cross reference in Subpart A.

Some of the Subpart A language has been directly imported into Subpart S without modification, while some has been modified for clarity and conciseness, without changing the original intent.

A new reference in Subpart A directs the reader to subpart S for regulations dealing with model year 2001 and later light-duty vehicles and light-duty trucks.

2. Organization of Emission Standards

In addition to the overall reorganization of the compliance regulations, EPA is proposing a major reorganization to the emission standards in an effort to make them easier to read and use. It should be emphasized that no new emission standards for new light-duty vehicles and light-duty trucks are being proposed today. In a few instances, errors have been corrected.

Emission standards in the current Subpart A regulations are roughly divided into four sections: light-duty vehicles, light-duty trucks, diesel heavy duty engines and gasoline heavy duty engines. With the increasing complexity of light-duty emission standards (brought about by phase-ins, alternate fuel provisions, and the expansion of light-duty truck standards into four classes), this organization has become admittedly cumbersome and difficult to use. Today's proposal isolates the light-duty emission standards from the heavy duty by placing them in a separate subpart S. It also addresses each of the four classes of light-duty trucks individually so that the reader can see in one section what numerical standard applies to a particular truck class, rather than try to interpret a tabular presentation containing multiple class standards. The following discussion details the applicability and organization of the emission standards in today's proposal.

Applicability: The emission standards included in Subpart S are applicable only to light-duty vehicles and light-duty trucks for model year 2001 and beyond. Standards for heavy duty engines remain in Subpart A of part 86. Standards for model years prior to 2001 remain effective in Subpart A. This is necessary for both compliance purposes (some MY 2001 light-duty trucks classes would still have to comply with emission standards which have commenced, but not completed phase-in) and for enforcement purposes. Once these regulations are no longer necessary for those purposes, they would be removed. Eventually, Subpart A would contain language applicable only to heavy duty engines.

Organization: The emission standards are organized into six sections. The first contains general provisions applicable to all light-duty vehicles and light-duty trucks. The other five sections contain the specific emission standards for light-duty vehicles and the four classes of light-duty trucks.

The general provisions include items like prohibition of crankcase emissions, prohibition of toxics and unsafe conditions, vapor venting prohibition, and altitude requirements. The general standards section also contains the implementation schedules for those emission standards which, as of the 2001 model year, have been promulgated but have not yet been fully implemented. This includes the Supplemental FTP standards and the Onboard Refueling emission standards. The reader of those implementation tables is referred to the specific emission standards sections to obtain the numerical standards which will be applicable. So doing eliminates the current problem of proliferation of sections due to phased-in emission standards. In the future, as new standards are promulgated, they will be assigned a section number with the appropriate model year suffix (e.g. 04 or 05). Finally, the general emission standards section contains those elements of emission standards which are common to all classes of light-duty vehicles and light-duty trucks, such as refueling receptacle requirements, determination of sales percentages to meet phase-in requirements, high altitude provisions, etc. This has been done to eliminate some of the redundancy prevalent in the current emission standards regulations.

The decision to split light-duty truck emission standards into four separate sections was made to facilitate use by the reader. Because some of the emission standards (such as CST and Cold CO) are the same in all four truck classes, this results in some redundant language. However, the SFTP standards and Tier 1 tailpipe standards are not the same within the truck classes. As a result, the redundancies seemed to be a small price to pay in return for easy-to-read emission standards. Another feature of the specific emission standards sections is the standardization of location. In all five sections, paragraph (a) contains the Tier 1 tailpipe standards, paragraph (b) contains the SFTP standards, and so on. If a standard does not apply to a certain class, the section is held as "reserved". EPA intends to continue to continue

this standardization in any future emission standards regulations.

3. Corrections and Changes

The language prohibiting crankcase emissions has been modified to prohibit crankcase emissions from all light-duty vehicles, rather than from Otto-cycle and methanol-fueled diesel light-duty vehicles. This is being done to standardize light-duty vehicle regulations with those for light-duty trucks, which currently prohibit crankcase emissions from all light-duty trucks, regardless of fuel or duty cycle.

CAA section 206(f) establishes the requirement that all vehicles meet the requirements of section 202 of the Act regardless of the altitude at which they are sold. In promulgating the regulations for this requirement, EPA included high altitude exemption provisions for those vehicles and trucks meeting specific design limitation criteria (see 40 CFR 86.094–8(h) and (i). EPA has reviewed the last five years of certification activity which shows that no manufacturer requested the use of high altitude exemptions, indicating that the design limitation elements needed to qualify for the exemption no longer exist. Therefore, EPA is proposing to eliminate the high altitude exemption provisions.

In the current regulations, 40 CFR 86.094–16(a) specifically prohibits gasoline-fueled LTDs and LDVs from being equipped with defeat devices. This regulation was promulgated as part of the cold CO emission standards (57 FR 31900), which are applicable only to gasoline-fueled vehicles; hence the regulation excluded all but gasoline from the defeat device prohibition. However, the Agency believes that defeat devices should be prohibited regardless of the fuel consumed, consistent with longstanding EPA policy as outlined in EPA Advisory Circular 24 "Prohibition of use of Emission Control Defeat Devices." Therefore, EPA is proposing to incorporate its defeat device policy into regulatory language which applies to all types of fuels rather than just to gasoline. This language is found in section 86.1809–01 in the proposed regulation.

L. Harmonization With California Air Resources Board Compliance Procedures

The Agency worked closely with California ARB as it developed today's CAP 2000 procedures. Currently, EPA and California ARB have procedures for certification which, while similar in nature, have a few fundamental differences which add to the manufacturers' testing, paperwork and reporting burdens. When California ARB, EPA, and automotive manufacturers signed the statement of principles for redesigning the compliance program, it was understood that the two agencies would work together to reduce these burdens, by harmonizing the certification procedures to the fullest extent possible. In today's proposal, virtually all features have been coordinated with those of California ARB, including the durability and emission data vehicle selection procedures; the concepts of test groups and durability groups; low and high mileage in-use verification testing; confirmatory in-use testing; and paperwork and information collection. California ARB has also indicated to EPA that it intends to issue separate regulations based on the final outcome of today's proposed regulations that can be implemented at the same time as the EPA regulations.

M. Implementation

EPA is proposing that CAP 2000 be implemented in the 2001 model year (MY) for light-duty vehicles and light-duty trucks. EPA is proposing to give manufacturers the option of participating in the CAP 2000 program one year early (2000 MY) with all or some of their product offering, provided that the program is adopted in its entirety. Thus, early opt-in must include all provisions of CAP 2000. In MY 2001, all manufacturers would be required to comply with CAP 2000 regulations.

EPA considered providing a phase-in period; however, the Agency believes that concurrent administration of two certification programs would present an unacceptable burden to EPA and manufacturers. For example, it would entail two sets of applications, computer data, confirmatory testing procedures, and certificates of confirmatory for each program. In addition, the grouping procedures of CAP 2000 were designed to cover the manufacturer's entire product lines. Applying these procedures to a portion of a manufacturer's product line would result in little savings and could result in more cost for manufacturers than the current program, in some circumstances.

In spite of the logistical concerns with administering two different programs, EPA believes that the proposed early opt-in provision is beneficial overall. Early opt-in would allow manufacturers to take earlier advantage of the time and cost savings from the reduced testing requirements, less paper work, and broader certification groups of CAP 2000. EPA also anticipates that the rate of early opt-in participation would be small and would most likely occur when the savings outweigh any administrative difficulties. The overall reduction in pre-certification activities would offset the cost and implementation requirements needed for CAP 2000. Finally, the Agency believes that early opt-in of CAP 2000 is beneficial because it would push forward by one year the in-use feedback, thus enabling manufacturers to identify and fix any problems one year sooner.

Special consideration was given to implementing the proposed durability procedures. The Agency believes the proposed new durability process, while improving upon the current procedures, requires some lead time to implement. Therefore, the Agency is proposing to allow manufacturers to continue using durability data they may have already generated using either the AMA procedure or the manufacturer-determined light-duty truck procedures for model years 2001 through 2003. The Agency is also proposing to accept the procedures approved under the current RDP–1 provisions for use in CAP 2000 without further Agency approval.

The Agency is proposing that manufacturers wishing to carry over AMA, alternate service accumulation durability or light-duty truck durability data to the 2001 through 2003 model years be responsible for determining that their new durability groups are eligible to utilize that data using good engineering judgement. The Agency believes that sufficient documentation exists to assist the manufacturers in reaching accurate decisions.[28] The Agency can make specific eligibility rulings if requested by a manufacturer, and would review such determinations when making decisions on an application for certification.

The MY 2001 implementation date takes into consideration the time needed for manufacturers to plan, implement, contract, and/or build facilities needed for performing in-use testing and meeting other provisions required by CAP 2000. EPA is aware of a concern expressed by some manufacturers associated with the cost to manufacturers in creating additional space or facilities for in-use testing. The Agency believes that the associated cost savings arising from the proposed reductions in pre-production testing would offset the costs added by the in-use testing requirements. For manufacturers with laboratories in the

[28] EPA Advisory Circular 17F, "General Criteria for the Carryover and Carry-across of Certification Data and the Carryover of Fuel Economy Data for Light-Duty Vehicles and Light-Duty Trucks" dated November 16, 1982.

United States, the emission data and durability testing saved by the reduced certification requirements under CAP 2000 should provide the necessary test capacity to conduct the required in-use testing. For manufacturers without laboratories in the United States, the money saved from the reduced certification testing in their laboratories should be sufficient to fund their in-use testing at a contractor facility in the United States. To accommodate the special test facility requirements of the evaporative/refueling procedures, EPA is proposing not to require in-use testing for those procedures until the 2004 MY.

The Agency is proposing to allow manufacturers to forgo the low-mileage in-use testing requirement for three model years to allow additional time for test facility preparation.

N. Incentives to Encourage Better In-Use Emission Performance

Consideration of incentives to encourage better in-use emission control performance was a feature of the aforementioned Statement of Principles signed by EPA, California ARB, and manufacturers. The Agency believes that encouraging good in-use emissions performance can serve to improve air quality in the long run. To be effective, any incentives offered should motivate manufacturers to produce vehicles which are cleaner and more durable than they would have otherwise been built.

The current recall program actually acts as an incentive program because manufacturers would rather invest in assuring that vehicles meet standards in use rather than risk future testing and possibly an expensive recall. The in-use testing proposed for CAP 2000 will serve to bolster this incentive. Recall is effective because of the large cost and public image risk of recall. However, the recall program is a negative incentive, in that no rewards are given for good performance. The Agency would like to propose positive incentives for both good performance (e.g., consistent in use compliance at high mileage in the as-received condition) and exemplary performance (consistent in use performance at high mileage that is significantly below the standards). This is a significant challenge because rewards will have to be of such value as to offset the manufacturers' costs of changing vehicle designs or manufacturing practices. The Agency does not currently have the information necessary to assess the levels of reward needed to offset these costs, or what these costs might be. Therefore, the Agency requests specific information from manufacturers on what incentives would motivate them to achieve various levels of improvements to in-use emission control performance.

The Agency would also like comment on an incentive program concept that involves at least two levels of in-use achievement. The first level would be that of good, solid in-use compliance. The second level would be that of exemplary in-use performance. Each of these levels would carry rewards that would be of increasing benefit for manufacturers. The benefits would involve more cost savings and flexibility in certification and information requirements submittal, as well as potential reductions in the in-use testing requirements for exemplary performance. The Agency believes it would be able to offer these benefits without significant increased risk of noncompliance in cases where the manufacturer has a proven track record of solid compliance or exemplary performance. The more confidence the Agency has in a manufacturer's likely performance, the more oversight EPA could forego without significant added risk.

An example of Level 1 incentives could be criteria such as passing results for all CAP 2000 high mileage in-use testing for two consecutive model years, or, alternatively, an average high mileage compliance level of no more than 75% of the standards for two consecutive model years. Added to either of these could be a record of two consecutive model years of no emission related recalls, either ordered or voluntary (for any reason), and of no significant violations of the prohibited acts found in section 203 of the Clean Air Act. These criteria would represent a convincing case that the manufacturer would likely continue such performance. Therefore, the Agency would be willing to forego a significant amount of oversight for that manufacturer, as long as this record of compliance is achieved. Some types of rewards, for example, could be wider flexibility in choosing durability groups (within the technical constraints of good engineering judgement), a lower confirmatory test random rate by EPA, or the virtual elimination of certification audits.

The Level 2 incentives would be for manufacturers exhibiting exemplary emissions performance. In making this determination, the Agency could consider the same criteria as for level 1, but with a stronger demonstration of in-use compliance (such as 2-year average high mileage compliance of 50% of the standard, as proposed to 75% of the standard). The Agency also believes that it would be appropriate to consider in-use data and information obtained apart from the in-use verification and recall programs, such as OBD data, I/M data or other credible in-use information sources. EPA would expect that manufacturers wishing to be considered "exemplary" would provide such information to EPA. The rewards for such exemplary performance might be: all level 1 rewards, plus the elimination of low mileage in-use testing, reductions in high mileage in-use testing, and public recognition for the manufacturer by the Agency.

Although the specific procedures for the above concept have not been developed, it is intended that the criteria be evaluated for each model year. That is, the most recently available in-use data would be evaluated prior to awarding the benefits for the upcoming model year. The Agency would like comments on other procedural problems that would have to be solved, as well as on the criteria and rewards.

Many of the rewards in the above example do not require regulatory change or the addition of regulatory authority. Nevertheless, the Agency would like comments on this concept, and any other ideas for incentives. Today's proposal contains regulatory language that will allow the Agency to waive or modify certain other regulatory requirements to allow the structuring of an incentive program. The Agency would use this authority along with other discretionary actions to design incentive programs. To retain program flexibility, and to allow time to learn what level of in-use performance to expect once the program is underway, the Agency is not proposing specific performance criteria or rewards at this time. Rather, the Agency would prefer to establish the regulatory basis in this rulemaking and establish specific incentive packages by guidance.

O. Good Engineering Judgment and Decision Making Under the Regulations

The regulations proposed today require that many different decisions be made leading up to and following the certification of a group of vehicles. In each case, the regulations specify the criteria that apply to these decisions. For example, the vehicles within a manufacturer's product line must be divided into durability groups with vehicles exhibiting similar emissions deterioration throughout their useful life (§ 86.1816–01); within each durability group the vehicle configuration expected to generate the highest level of exhaust emission deterioration must be selected (§ 86.1818–01); an approved durability program must be applied to those durability groups, including those

in future model years, whose deterioration is accurately predicted by the durability program (§ 86.1819–01); emissions data vehicles from a test group must be selected based on the vehicle configuration which is expected to exhibit the worst in-use emissions (§ 86.1824–01); the vehicle or engine parameters which would be subject to adjustment must be determined, based on various specified criteria (§ 86.1829–01); and so on.

Unless otherwise specified in the regulations, the manufacturers would initially make all of these decisions. This allows manufacturers to most efficiently structure their programs to apply for certification, and allows EPA to reserve its resources for appropriate review and auditing of decisions made by the manufacturer. EPA reserves the authority in all cases to reject the decision made by the manufacturer if the regulatory criteria are not properly applied. In general, issuance of a certificate of conformity by EPA would reflect EPA's decision to accept for purposes of that certification the decisions made by the manufacturer. However, if EPA later determines that incorrect or misleading statements were made by a manufacturer, EPA may void a certificate ab initio. EPA reserves the right not to issue a certificate where a manufacturer's decision is not consistent with the regulations.

This process has been employed under the current regulations for many years for various regulatory requirements. For example, manufacturers routinely divide their product line into engine families, using the criteria specified in the regulations. Prior approval by the Administrator is not required; however, EPA may reject this determination and not issue a certificate if the Administrator determines that the regulatory criteria were not properly applied. Today's proposal takes this approach and extends it throughout the regulations.

EPA is also proposing an explicit requirement that manufacturers exercise good engineering judgment in making the decisions required under the regulations. This would ensure that manufacturers routinely review and update their internal decision making processes, so that the best available data and information are brought to play in making the decisions called for under the regulations. Failure to apply good engineering judgment may result in EPA overruling the manufacturer's decision. As long as manufacturers do not deliberately overlook information, use incorrect information, or make decisions without using a rational decision process, EPA is limiting the consequences of making incorrect good engineering judgments to future corresponding decisions. Also, the Agency is proposing that such overruled decisions be applied as soon as practicable. In the case of some durability decisions, a practical implementation for a new decision may require notice of a whole model year. For example, if a durability problem regarding selection of the appropriate durability calibration reaches a final Agency decision to require a change in the manufacturer's decision process in December of 2002 calendar year, the 2003 model year vehicles will already be certified and could not be affected by this decision. Also, the 2004 model year durability vehicles may have completed the durability process by that time, in which case it would not be practical to apply this decision until the 2005 model year.

The Agency is proposing harsher remedies for intentional and deliberate acts or decisions made without a rational basis. Intentional disregard for good engineering judgment could result in voiding certificates ab initio, with provisions for an administrative hearing, in addition to any civil or criminal enforcement actions which may result.

P. Optional Applicability for Heavy Duty Engines

EPA is proposing to modify the option available to manufacturers of heavy-duty engines to certify heavy-duty vehicles up to 10,000 pounds GVWR as light-duty trucks, in accordance with the light-duty standards and procedures. The modification consists of raising the weight limit to 14,000 pounds GVWR. EPA believes this change is appropriate because (a) it is strictly optional; (b) it is environmentally beneficial, because any engines utilizing it will be subject to the more stringent light-duty truck emission standards; (c) it provides more flexibility to manufacturers of heavy-duty engines, in that they may incorporate more engines into their light-duty program, potentially eliminating the need to run two separate compliance programs; and (d) the 14,000 pound weight limit is common to that of California's mandatory Medium Duty Vehicle program, thus enabling more harmonization.

III. Cost Effectiveness

The Agency estimates that manufacturers should realize a total annual savings of about $55 million as a direct result of today's proposal. These figures include savings gained from streamlined certification activities, such as fewer durability and emission data demonstrations, and accounts for the new costs incurred by the proposed in-use verification testing requirements. A detailed discussion and table of costs/savings are contained in the Support Document to this proposed regulation and are filed in the Docket.

The Agency is not claiming any environmental benefits for this proposal because no new emission standards are being proposed. The anticipated outcome of the proposed requirements should, however, result in some benefits because of improvements to durability demonstration requirements, and because of the potential to identify and improve upon vehicle emission performance based on the in-use verification test results.

IV. Public Participation

A. Comments and the Public Docket

EPA welcomes comments on all aspects of this proposed rulemaking. Commenters are especially encouraged to give suggestions for changing any aspects of the proposal. All comments, with the exception of proprietary information should be addressed to the EPA Air Docket Section, Docket No. A–96–50 (see **ADDRESSES**).

Commenters who wish to submit proprietary information for consideration should clearly separate such information from other comments by (1) labeling proprietary information "Confidential Business Information" and (2) sending proprietary information directly to the contact person listed (see **FOR FURTHER INFORMATION CONTACT**) and not to the public docket. This would help insure that proprietary information is not inadvertently placed in the docket. If a commenter wants EPA to use a submission labeled as confidential business information as part of the basis for the final rule, then a non-confidential version of the document, which summarizes the key data or information, should be sent to the docket.

Information covered by a claim of confidentiality will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the submission when it is received by EPA, the submission may be made available to the public without notifying the commenters.

B. Public Hearing

Anyone wishing to present testimony about this proposal at the public hearing (see **DATES**) should notify the contact person (see **FOR FURTHER INFORMATION CONTACT**) no later than five days prior to the day of the hearing. The contact

person should be given an estimate of the time required for the presentation of testimony and notification of any need for audio/visual equipment. Testimony will be scheduled on a first come, first serve basis. A sign-up sheet will be available at the registration table the morning of the hearing for scheduling those who have not notified the contact earlier. This testimony will be scheduled on a first come, first serve basis to follow the previously scheduled testimony.

EPA requests that approximately 50 copies of the statement or material to be presented be brought to the hearing for distribution to the audience. In addition, EPA would find it helpful to receive an advanced copy of any statement or material to be presented at the hearing at least one week before the scheduled hearing date. This is to give EPA staff adequate time to review such material before the hearing. Such advanced copies should be submitted to the contact person listed.

The official records of the hearing will be kept open for 30 days following the hearing to allow submission of rebuttal and supplementary testimony. All such submittals should be directed to the Air Docket Section, Docket No. A–96–32 (see **ADDRESSES**). The hearing will be conducted informally, and technical rules of evidence will not apply. A written transcript of the hearing will be placed in the above docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceedings.

If no one indicates to EPA that they wish to present oral testimony by the date given, the public hearing will be cancelled.

V. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or,

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

It has been determined that this rule is not a "significant regulatory action" under the terms of the Executive Order 12866 and is therefore not subject to OMB review.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (signed into law on March 22, 1995) requires that EPA prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by state, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 of the Unfunded Mandates Reform Act requires EPA to establish a plan for obtaining input from and informing, educating and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, EPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. EPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless EPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this proposed rule is expected to result in the expenditure by state, local and tribal governments or private sector of less than $100 million in any one year, EPA has not prepared a budgetary impact statement or specifically addressed selection of the least costly, most cost-effective or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, EPA is not required to develop a plan with regard to small governments.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant adverse impact on a substantial number of small entities because it relates to requirements applicable only to manufacturers of motor vehicles, a group which does not contain a substantial number of small entities. See 1996 World Motor Vehicle Data, AAMA, pp. 282–285.

Therefore, I certify that this action will not have a significant impact on a substantial number of small entities.

D. Executive Order 13045

This proposed rule is not subject to E.O. 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62FR19885, April 23, 1997), because it does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

E. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 1872.01) and a copy may be obtained from Sandy Farmer by mail at OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington D.C. 20460, by email at farmer.sandy@epa.gov, or by calling (202)260–2740. A copy may also be downloaded off the internet at http://www.epa.gov.icr.

The information collection burden associated with this rule (testing, record keeping and reporting requirements) is estimated to total 700,154 hours annually for the manufacturers of light-duty vehicles and light-duty trucks. The hours spent annually on information collection activities by a given manufacturer depends upon manufacturer-specific variables, such as the number of test groups and durability groups, production changes, emissions defects, and so forth.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the

existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2136); 401 M St., S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., N.W., Washington, DC 20503, marked "Attention: Desk Officer for EPA." Include the ICR number in any correspondence.

List of Subjects in 40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: July 15, 1998.

Carol M. Browner,

Administrator.

[FR Doc. 98–19403 Filed 7–22–98; 8:45 am]

BILLING CODE 6560–50–U

Federal Register

Thursday
July 23, 1998

Part III

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing, Notice of Title VI Loan Guarantee Demonstration Program; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4384–N–01]

Notice of Title VI Loan Guarantee Demonstration Program

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The FY 1998 HUD Appropriations Act provided a $5 million appropriation for the funding of a demonstration program which could guarantee up to $45 million in Title VI loan guarantees. This notice announces HUD's loan guarantee demonstration program under Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). Through the demonstration program, HUD is seeking to develop models which will provide innovative ways to enhance development of affordable, accessible, and visitable housing in Indian areas, while increasing access to private capital, economic growth, and the investment and participation of traditional financial institutions not customarily serving Indian reservations and other Native American areas. Indian tribes and Tribally Designated Housing Entities (TDHEs) are encouraged to form partnerships (financial, service/supportive and economic development oriented) with investors or financial institutions and submit model Title VI demonstration projects to be evaluated in accordance with criteria listed in this notice. Applications for Title VI loans may be submitted to HUD at any time during the demonstration program, and will be processed on a first-come, first-served basis.

EFFECTIVE DATE: This notice is effective July 23, 1998.

FOR FURTHER INFORMATION CONTACT: Karen Garner-Wing, Director, Office of Loan Guarantee, Department of Housing and Urban Development, 1999 Broadway—Suite 3390, Box 90, Denver, CO 80202–3390; telephone (303) 675–1600 (this is not a toll free number). Persons with speech or hearing impediments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Authority; Background; Definitions; and Eligibility

(A) Authority

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 *et seq.*); Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. 105–65; 111 Stat. 1344, 1355, approved October 27, 1997).

(B) Background

Title VI of NAHASDA (entitled "Federal Guarantees for Financing for Tribal Housing Activities") establishes a Native American loan guarantee program. Title VI authorizes the Department to guarantee financial obligations issued by Indian tribes or their Tribally Designated Housing Entities (TDHEs) to finance affordable housing activities as defined in Title II of NAHASDA and outlined in their Indian Housing Plan (IHP). To assure the repayment of notes or other obligations, NAHASDA requires Title VI applicants to pledge their Indian Housing Block Grant (IHBG) funds and other security as required by the Department.

(C) Applicability of 24 CFR Part 1000, Subpart E

HUD's regulations implementing Title VI of NAHASDA are located at 24 CFR part 1000, subpart E. Unless specifically referenced in this notice, these regulations do not apply to the Title VI Demonstration Program.

(D) Definitions

(1) *Definitions in 24 CFR part 1000, subpart E.* Unless otherwise defined in this notice, the definitions set forth in 24 CFR part 1000 apply to the Title VI Demonstration Program.

(2) *Definition of "Visitability".* The following definition also applies to the Title VI Demonstration Program:

Visitability means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors provide a minimum 36-inch clear opening. Allowing use of 36-inch doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards for a small percentage of units.

(E) Eligible Activities for the Title VI Demonstration Program

Loans and bond issuances are authorized and guaranteed by HUD for the purposes of financing affordable housing activities as planned in the Tribes/TDHEs IHP. For the FY 1998 demonstration program, Title VI activities shall be limited in scope as described in this notice. The activities authorized in this notice are those which include:

(1) *Indian housing assistance.* The provision of modernization or rehabilitation for housing previously developed or operated pursuant to a contract between the Secretary of HUD and an Indian Housing Authority.

(2) *Development.* The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related activities.

(3) *Model Activities.* Housing activities under model programs that are designed to carry out the purposes of the NAHASDA and are specifically approved by the Secretary and/or approved in connection with the IHP process.

In undertaking any of the above activities, program participants should design construction, rehabilitation or modifications to buildings and facilities to be accessible and visitable for persons with disabilities and others who may also benefit, such as mothers with strollers or persons delivering appliances. In providing technical assistance, educational opportunities, and loans, training and informational materials related to program activities should be made available in appropriate video, audio, or braille formats, if approved by HUD. If job opportunities are provided through this program, reasonable efforts should be made to employ Native Americans with disabilities in a variety of jobs. Employers should make reasonable accommodations for employees with disabilities.

(F) Eligible Borrowers to Participate in the Demonstration Program

To be eligible to participate in the demonstration program, a borrower must:

(1) Be a Federally recognized Indian tribe or TDHE that is an approved recipient for IHBG funds;

(2) Have experience with complex financial transactions;

(3) Certify that the borrower was unable to obtain financing without the use of this guarantee and cannot complete such financing consistent with the timely execution of the program plans without such guarantee;

(4) Have tribal approval that authorizes the borrower to issue or undertake financial obligations;

(5) Have the capacity to repay the obligation (i.e. to meet the debt service requirement); and

(6) Pledge IHBG grants as security. Although a borrower is required by the NAHASDA to pledge current and future IHBG funds as collateral for the Title VI guarantee, the borrower will be required to furnish additional security to satisfy HUD requirements. Examples of additional security include:

(a) *Funding Reserves.* IHBG or other grant funds may be used to provide capital reserves to provide resource funds to enhance the economic feasibility of a project's early years. This capital advance can be made as a loan, with the intent to repay funds when the project begins to earn sufficient income.

(b) *Over-Collateralization.* The use of grant funds may be structured so that project-generated cash flow will be sufficient to cover debt service and directly enhance the guaranteed loan. One technique for accomplishing this approach is over-collateralization.

An example of this is where grant funds are combined and the borrower makes affordable housing loans to tribal members at an interest rate equal to or greater than the rate on the Title VI loan. The total loan portfolio would be pledged to the repayment of the Title VI loan.

(c) *Letter of Credit.* IHBG and Title VI Loan Guarantee Capacity-Building Grants (see the separate Notice of Funding Availability published elsewhere in today's **Federal Register**) may be used to cover the cost of a letter of credit, issued in favor of HUD. This letter of credit is then available to fund any amounts due on the Title VI loan provided a default should occur and debt obligations remain outstanding after 30 days.

(d) *Interest Rate Subsidy.* Title VI funds may be used to provide an interest rate subsidy to make financing affordable for low-income families or the borrower. NAHASDA funds could be used to "buy down" the interest rate or make full or partial interest payments, allowing the reduction and enhancement of the long term affordability of homeownership for eligible families and for borrowers to carry out approved affordable housing activities.

II. Submission Requirements

Applications may be submitted to HUD at any time and must contain, at a minimum, the information required under 24 CFR § 1000.424. Applicants are reminded that § 1000.424(d)(6) requires the borrower to submit a certification of compliance with all of the requirements described in 24 CFR part 1000, subpart A, including the environmental review requirements set forth in §§ 1000.18, 1000.20, 1000.22, and 1000.24. No funds may be committed to a project (other than for certain nonphysical activities) before the completion of the environmental review and, where the Indian tribe assumes responsibility for the environmental review, before approval of the request for release of funds and related certification required by sections 105(b) and 105(c) of NAHASDA.

III. Clarifications

HUD will contact an applicant to clarify an item in the application. Applicants must submit clarifications in accordance with the request made by HUD or the Department will reject the application as incomplete.

IV. Notification of Title VI Approval or Disapproval

Upon completion of its review, HUD will notify the Title VI applicant of HUD's decision to approve or disapprove the proposed demonstration project, with an explanation of the reasons for the disapproval. Those applications that HUD approves will include a Firm Commitment notice from HUD to the applicant. Applicants will have 30 days in which to submit an appeal in the event of a disapproval. The appeal must include a narrative statement, with supporting documentation, that addresses the issues in HUD's disapproval and serves to mitigate HUD's reasons for disapproval.

V. Findings and Certifications

(A) Paperwork Reduction Act Statement

The information collection requirements contained in this notice have been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once assigned, will be published in the **Federal Register**. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

(C) Federalism, Executive Order 12612

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this notice will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order.

Dated: July 20, 1998.

Deborah Vincent,

General Deputy, Assistant Secretary for Public and Indian Housing.

[FR Doc. 98–19675 Filed 7–20–98; 2:24 pm]

BILLING CODE 4210–33–P

federal register

Thursday
July 23, 1998

Part IV

Department of Housing and Urban Development

Office of the Assistant Secretary for Public and Indian Housing, Notice of Funding Availability for Title VI Loan Guarantee Capacity-Building Grants; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4384–N–02]

Notice of Funding Availability for Title VI Loan Guarantee Capacity-Building Grants

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA announces the availability of $4 million for assistance to organizations providing capacity building technical assistance to Indian tribes or Tribally Designated Housing Entities (TDHEs) that have been granted a loan guarantee under the Title VI Demonstration Program. Under the demonstration program (which HUD is announcing through a separate notice published elsewhere in today's **Federal Register**), HUD will guarantee the financial obligations issued by Indian tribes and TDHEs to finance affordable housing activities authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). This document sets forth the application instructions for the grants made available under the NOFA.

APPLICATION DUE DATES: Completed applications (an original and one copy) must be submitted no later than 4:00 pm, Mountain time, on August 24, 1998 to the address shown below.

The above-stated application deadline is firm as to date and hour. In the interest of fairness to all applicants, HUD will treat as ineligible for consideration any application that is not received by the application deadline. Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

ADDRESSES AND APPLICATION SUBMISSION PROCEDURES: *Addresses:* Completed applications (one original and one copy) must be submitted to: National office of Native American Programs—Office of Loan Guarantee, Department of Housing and Urban Development, 1999 Broadway—Suite 3390, Box 90, Denver, CO 80202–3390; ATTN: Title VI Demonstration.

Application Procedures: Mailed Applications. Applications will be considered timely filed if post marked on or before 4:00 p.m. on the application due date and received at the address above on or within five (5) days of the application due date.

Applications Sent by Overnight/ Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. Hand carried applications delivered before and on the application due date must be brought to the specified location and room number between the hours of 8:30 am to 4:00 pm, Mountain time.

FOR FURTHER INFORMATION AND TECHNICAL ASSISTANCE CONTACT: Karen Garner-Wing, Director, Office of Loan Guarantee, Department of Housing and Urban Development, 1999 Broadway—Suite 3390, Box 90, Denver, CO 80202–3390; telephone (303) 675–1600 (this is not a toll free number). Persons with speech or hearing impediments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. Authority; Background; Purpose; Definitions; Amounts Allocated; and Eligibility

(A) Authority

Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub. L. 105–65, 111 Stat. 1344, 1357; approved October 27, 1997) (FY 1998 HUD Appropriations Act).

(B) Background

Title VI of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (entitled "Federal Guarantees for Financing for Tribal Housing Activities") authorizes HUD to guarantee financial obligations issued by Indian tribes or their Tribally Designated Housing Entities (TDHEs) to finance affordable housing activities. To assure the repayment of notes or other obligations, NAHASDA requires Title VI applicants to pledge their Indian Housing Block Grant (IHBG) funds and other security as required by HUD. The FY 1998 HUD Appropriations Act provided $5 million for the funding of a demonstration program which could guarantee up to $45 million in Title VI loan guarantees. HUD's Title VI Loan Guarantee Demonstration program is being announced through a separate notice published elsewhere in today's **Federal Register**.

(C) Purpose

(1) The FY 1998 HUD Appropriations Act provided $25 million to test comprehensive approaches for developing jobs through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital in rural and tribal areas of the United States. Of the $25 million, $4 million is being made available under this NOFA.

(2) The funds available under this NOFA will be competitively awarded to one or more technical assistance providers that will use the grant funds to provide capacity-building technical assistance to Indian tribes or TDHEs with an obligation approved under the Title VI Demonstration Program. The purposes of grants awarded under this NOFA are to: (a) strengthen the economic feasibility of projects guaranteed under Title VI of NAHASDA; (b) directly enhance the security of guaranteed loans; (c) finance affordable housing activities and related projects that will provide near-term results; (d) demonstrate economic benefits such as homeownership opportunities, increased housing availability, housing accessibility and visitability, and job creation related to the approved project; and (e) attainment of Indian Housing Plan goals and objectives.

(3) As a technical assistance provider, the organization will:

(a) Act as a pass-through agent to distribute the grant funds to Indian tribes and/or TDHEs that have hired a technical service provider to oversee the successful completion of their Title VI project; and/or;

(b) Act as a technical service provider to Indian tribes and/or TDHEs that request the organization's services in overseeing the successful implementation of their Title VI project, and/or;

(c) Act as a pass-through agent to distribute the grant funds to Indian tribes and/or TDHEs for eligible costs directly related to the approved Title VI project (but which are not specifically covered in NAHASDA) or other related activities as deemed appropriate by HUD. Examples of eligible costs include, but are not limited to: types of creative financing such as payment of private financial guaranty insurance policies, letters of credit or other forms of credit enhancement for obligations to be guaranteed, the payment of interest

due and costs such as underwriting and note servicing.

(D) Definitions

Capacity-building is the transferring of skills and knowledge in planning, developing and administering activities funded under this NOFA. For purposes of this NOFA, capacity-building may include provision of loans and grants as well as training and technical assistance activities.

Visitability means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors provide a minimum 2 feet, 10 inches clear opening. Allowing use of 2'10" doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards for a small percentage of units.

(E) Amounts Allocated

This NOFA makes available a total of $4 million in FY 1998 funding on a competitive basis.

(F) Eligible Applicants

(1) Eligible applicants are private organizations (for profit and nonprofit) with experience in providing technical assistance and capacity-building skills in planning and developing affordable housing. Applicants must also have experience in assisting Indian tribes, TDHEs, and/or other entities having similar physical, social, or economic conditions to those that exist in Indian country.

(2) A technical assistance provider awarded a grant under this NOFA must demonstrate experience in providing technical assistance in housing development to Indian tribes, TDHEs, or other entities facing similar economic and social conditions to those that exist in Indian country.

(G) Eligible Activities

(1) Funding under this NOFA will be used to enhance and strengthen an approved Title VI demonstration project. All applicants must meet and comply with the requirements of this NOFA and the Title VI Demonstration Program (see notice published elsewhere in today's **Federal Register**). HUD desires to see the funds used to finance affordable housing activities and projects that will provide near-term results and demonstrate economic benefits (such as homeownership opportunities, increased availability of affordable/accessible housing, job creation and attainment of Indian Housing Plan goals and objectives). Eligible activities include:

(a) Providing technical assistance which will enhance the completion of the Title VI demonstration project, including:

(i) Planning, training and pre-development assistance to tribes/TDHEs to expand their scope of expertise, to implement larger-scale and model Title VI projects:

(ii) Self-help assistance, including skill in fiscal management related to the Title VI demonstration project;

(iii) Dissemination of capacity-building information and citizen participation activities (including information on Title VI loans); and

(iv) Coordination of existing resources to maximize housing or economic opportunities funded under the provisions of this NOFA and/or the Title VI Demonstration Program.

(b) Providing loss mitigation techniques.

(c) Providing related activities (public improvements, economic development, public services, and administrative costs) that directly support the housing activities listed in the Title VI Demonstration Program. The provision of these activities may not constitute more than twenty-five percent (25%) of the recipient's budget in the aggregate, and must clearly support and serve the Native American community served by the housing activities. Such activities include, but are not limited to:

(i) Construction of publicly- or privately-owned utilities needed to serve the housing site(s) for which the Title VI demonstration project was funded;

(ii) Provision of supportive housing services that are directly supportive of the housing activities proposed in the Title VI demonstration project, including but not limited to, legal assistance, housing counseling, classes on purchasing a home, home maintenance and repair training, tenant services;

(iii) Tribal/TDHE costs of administering the funding and carrying out of activities related to the Title VI demonstration project (which are not specifically permitted by NAHASDA), but at a rate not to exceed 10% of the Title VI funds provided ; and

(iv) Provision of financial or technical assistance related to the Title VI loan to start or expand businesses, for the purposes of creating jobs or providing goods or services for tribal residents living in the Indian area.

(2) In undertaking activities under this NOFA, applicants should design construction, rehabilitation or modifications to buildings and facilities to be accessible and visitable for persons with disabilities and others who may also benefit, such as mothers with strollers or persons delivering appliances. In providing technical assistance, educational opportunities, and loans, training and informational materials related to program activities should be made available in appropriate video, audio, or braille formats, if approved by HUD. If job opportunities are provided through this program, reasonable efforts should be made to employ Native Americans with disabilities in a variety of jobs. Employers should make reasonable accommodations for employees with disabilities.

II. Program Requirements

(A) Compliance with Civil Rights Laws. Indian tribes and TDHEs must comply with the nondiscrimination requirements of 24 CFR 1000.12. All other applicants must comply with the nondiscrimination requirements set forth in 24 CFR 5.105(a).

(B) Economic Opportunities for Low and Very Low-Income Persons (Section 3). Recipients of HUD assistance must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons), and the HUD regulations at 24 CFR part 135, including the reporting requirements in subpart E. Section 3 provides that recipients shall ensure that training, employment and other economic opportunities, to the greatest extent feasible, be directed to: (1) low and very low income persons, particularly those who are recipients of government assistance for housing; and (2) business concerns which provide economic opportunities to low and very low income persons.

(C) Relocation. Any person (including individuals, partnerships, corporations or associations) who moves from real property or moves personal property from real property as a direct result of a written notice to acquire or the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing governmentwide regulation at 49 CFR part 24. Any person who moves permanently from real property or moves personal property from real property as a direct result of rehabilitation or demolition for an activity undertaken with HUD

assistance is covered by the relocation requirements of the URA and the governmentwide regulation. (Note that coverage under the URA does not include displacement funded by any Federal loan guarantees.)

(D) OMB Circulars. The policies, guidances, and requirements of OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations) and 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) apply to the award, acceptance and use of assistance under this NOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1998 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circular may be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395–7332 (this is not a toll free number).

(E) Program Award Period. Grant Agreements shall be for a period of up to 24 months. HUD, however, reserves the right to:

(1) Terminate grant awards in accordance with the provisions of 24 CFR part 84 anytime after 12 months.

(2) Extend the performance period of individual awardees up to a total of 12 additional months.

(F) Delivery of Services System. Technical assistance providers shall be required to:

(1) Provide technical assistance to Indian tribes and/or TDHEs.

(2) Obtain approval from the National Office of Native American Programs (NONAP) of its administrative and operating plans.

(3) Where necessary, cooperate and coordinate with other technical assistance providers to ensure clients are provided with the full range of technical services.

(G) Technical Assistance Plan (TAP). After selection, but prior to funding the award, technical assistance providers shall develop a Technical Assistance Plan (TAP) to be submitted to the NONAP for review and approval. A TAP shall be developed for each Indian tribe/TDHE receiving technical assistance (TA), and shall be prepared in consultation with the Indian tribe/TDHE and HUD. HUD will complete an environmental review where required in accordance with 24 CFR part 50 prior to approving the TAP. The TAP shall describe the following elements:

(1) Management strategy;
(2) Work plans;
(3) Establishment of priorities;
(4) Location of activities;
(5) Anticipated improved performance;
(6) Methods for measuring programmatic success;
(7) Tasks and sub-tasks for each program;
(8) Implementation schedule;
(9) Budgetary needs to accomplish tasks;
(10) Staffing plan; and
(11) Administrative budget.

(H) Negotiations. Technical service providers shall participate in negotiations with grant applicants and Title VI demonstration program participants.

(I) Financial Management and Audit Information. A grant recipient under this NOFA must provide a certification by an independent public accountant stating that the financial management system employed by the applicant meets the standards for fund control and accountability required by 24 CFR part 84, as applicable. The certification must provide the name, telephone number, and address of the independent public accountant.

(J) Training Sessions. Recipients may provide training sessions for Indian tribes/TDHEs where appropriate.

(K) Pass-Through Grants. Recipients must establish written criteria regarding pass-through procedures. HUD must approve this written criteria.

(L) Environmental Review. HUD's notification of award to a selected applicant will constitute a preliminary approval by HUD subject to approval of the Technical Assistance Plan and a HUD environmental review, where required. Selection for participation (preliminary approval) does not constitute approval of proposed sites for activities. Each preliminarily-selected applicant must assist HUD in complying with environmental review procedures, conducted by HUD where required in accordance with 24 CFR part 50. An applicant may not acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds to these activities, until written approval is received from HUD. The results of the environmental review may require that proposed activities be modified or proposed sites rejected.

(M) Flood Insurance. In accordance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001–4128), HUD will not approve applications for grants providing financial assistance for acquisition or construction (including rehabilitation) of properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:

(1) The community in which the area is situated is participating in the National Flood Insurance Program (see 44 CFR parts 59 through 79), or less than one year has passed since FEMA notification regarding such hazards; and

(2) Where the community is participating in the National Flood Insurance Program, flood insurance is obtained as a condition of approval of the application.

(N) Coastal Barrier Resources Act. In accordance with the Coastal Barrier Resources Act (16 U.S.C. 3501), HUD will not approve grant applications for properties in the Coastal Barrier Resources System.

III. Application Selection Process

(A) Rating and Ranking. (1) *General.* All applicants for funding under this NOFA will be evaluated against the criteria described below. The rating of the applicant or the applicant's organization and staff for technical merit or threshold compliance, unless otherwise specified, will include any sub-contractors, consultants and sub-recipients. If no applicants address the selection criteria described below, HUD will issue a revised NOFA requesting new applications for Title VI Demonstration Program capacity building grants.

(2) *Threshold.* If an applicant (a) has been charged with a violation of the Fair Housing Act by the Secretary; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice; (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act or Section 504 of the Rehabilitation Act; or (d) has been debarred, the applicant is not eligible to apply for funding under this NOFA until the applicant resolves such charge, lawsuit, letter of findings, or debarment to the satisfaction of the Department.

(3) After a determination of completion, the applications will be reviewed, rated and ranked, and notification of award of grant funds sent to the applicant. HUD will then fund the highest rated application from within the jurisdiction of each Area Office of Native American Programs in rank order. If any funds remain, HUD will then fund all of the remaining applications in rank order, regardless of which Area ONAP they are from. HUD reserves the right not to make awards under this NOFA.

(4) *Adjustment of Grant Awards.* If HUD determines that an application rated, ranked and fundable could be funded at a lesser grant amount than requested, consistent with the feasibility of the funded project or activities and the purposes of this NOFA, HUD reserves the right to reduce the amount of the grant award.

(B) Factors for award. (1) Each rating factor and the maximum number of points is reflected below. The maximum number of points to be awarded is 100. Once scores are assigned, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points.

(2) A rating plan shall establish a value to each criteria below.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Experience and Staff (40 points). This factor addresses the applicant's organizational and prior experience with Indian tribes, TDHEs, or other entities facing similar economic and social conditions in (a) administering similar types of funding; (b) the demonstrated capacity to carry out the proposed activities; and (c) previous experience in administering and/or overseeing loan or obligation programs by HUD or other Federal agencies, or the private sector. The rating of the applicant or the applicant's organization and staff for technical merit will include any faculty, subcontractors, consultants, subrecipients, and members of consortia which are firmly committed (i.e., has a written agreement or a signed letter of understanding with the applicant agreeing in principle to its participation and role in the project). HUD will also consider past performance in carrying out HUD-funded or other projects similar in size and scope to the project proposed.

Rating Factor 2: Soundness of Approach (40 points). This factor addresses the appropriateness and effectiveness of the proposed activities in substantially addressing eligible activities within the content of the objectives of this NOFA and the Title VI Demonstration Program notice, including any pass-through funds. The factor also addresses the workplan, management strategy, budget, and staffing proposed to conduct the work. In evaluating this factor, HUD will consider:

(a) The relationship of the proposed activities (including proposed pass-through funding activities) in developing or implementing affordable housing projects in the Indian areas;

(b) The extent to which the applicant can demonstrate that the technical assistance will improve the ability of the Indian tribe or TDHE to complete the project on a timely basis;

(c) The extent to which the proposed activities bring additional financial or other resources to Indian areas;

(d) The extent to which the proposed activities increase economic opportunities, as defined in this NOFA, to residents of Indian areas;

(e) The extent to which the proposed activities provide increased housing and economic opportunities for persons with disabilities;

(f) The applicant's workplan for conducting the proposed activities;

(g) The applicant's management strategy for conducting the proposed activities;

(h) The applicant's budget for conducting the proposed activities; and

(i) The applicant's staffing for conducting the proposed activities.

Rating Factor 3: Promoting Partnerships (10 points). This factor addresses the extent to which the applicant can demonstrate past experience in financing housing and economic development projects that include partnership arrangements. In evaluating this factor, HUD will award a greater number of rating points to those applicants that conducted projects in areas with similar economic, social, and physical conditions as those that exist in Indian areas. The applicant's past experience will be evaluated based on the following criteria:

(a) The number of partners for each project;

(b) The financial layering;

(c) The total dollar value of each project; and

(d) The number of completed housing and economic development projects that involved partnership arrangements.

Rating Factor 4: Coordination (10 Points). This factor addresses the extent to which the applicant proposes to coordinate the delivery of services with other entities providing assistance in Indian areas. In evaluating this factor, HUD will consider the extent to which the applicant will:

(a) Coordinate its proposed activities with other entities working in the Indian areas being served by the applicant;

(2) Take specific steps to share information with other entities serving Indian areas on the successful implementation of Title VI projects; and

(3) Take specific steps to develop linkages with other activities, programs, or projects (on-going or proposed) in Indian areas through meetings, information networks, planning processes, or other mechanisms to coordinate its activities so solutions are holistic and comprehensive.

IV. Application Submission Requirements

The application must include an original and one copy of the items listed below, and must be signed by an authorized official:

(A) Form SF–424, Application for Federal Assistance.

(B) Transmittal letter which identifies the amount of funds requested and the applicant and partners (if any).

(C) Table of Contents (please number pages of the submission and list them accordingly in the Table of Contents).

(D) Narrative statement and supporting documentation addressing the Factors for Award described in Section III of this NOFA. The narrative response should be numbered in accordance with each factor for award. This narrative statement will be the basis for evaluating the application. The suggested approach described in the responses to Rating Factor 2 will be the starting point for negotiating the grant agreement and the individual TAP required for each Indian tribe/TDHE receiving assistance.

(E) A statement as to whether the applicant proposes to use pass-through funds for activities under the proposed program, and, if so, the amount and proposed uses of such funds.

(F) Budget identifying costs for implementing the plan of suggested TA activities by cost category (in accordance with the following):

(1) Direct Labor by position or individual, indicating the estimated hours per position, the rate per hour, estimated cost per staff position and the total estimated direct labor costs;

(2) Fringe Benefits by staff position identifying the rate, the salary base the rate was computed on, estimated cost per position, and the total estimated fringe benefit cost;

(3) Material Costs indicating the item, quantity, unit cost per item, estimated cost per item, and the total estimated material costs;

(4) Transportation Costs, as applicable.

(5) Equipment charges, if any. Equipment charges should identify the type of equipment, quantity, unit costs and total estimated equipment costs;

(6) Consultant Costs, if applicable. Indicate the type, estimated number of consultant days, rate per day, total estimated consultant costs per consultant and total estimated costs for all consultants;

(7) Subcontract Costs, if applicable. Indicate each individual subcontract and amount;

(8) Other Direct Costs listed by item, quantity, unit cost, total for each item listed, and total other direct costs for the award;

(9) Indirect Costs should identify the type, approved indirect cost rate, base to which the rate applies and total indirect costs.

These line items should total the amount requested for the TA program. The grand total of all TA program funds requested should reflect the grand total of all funds for which application is made.

(G) Certifications of Compliance with the following:

(1) Section 3 of the Housing and Urban Development Act of 1968;

(2) 24 CFR part 87 (New Restrictions on Lobbying). Applicants must file the certification regarding appropriated funds, and if nonappropriated funds have been spent on lobbying, the SF–LLL;

(3) Applicant/Recipient Disclosure/ Update Report (this is form 2880).

(4) Fair Housing Act, Title VI of the Civil Rights Act of 1964 or the Indian Civil Rights Act as applicable, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975.

V. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit the proper certifications or failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 7 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

VI. Findings and Certifications

(A) Paperwork Reduction Act Statement. The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once assigned, will be published in the **Federal Register**. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) Environmental Impact. A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

(C) Federalism, Executive Order 12612. The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of HUD, the States, and local governments.

(D) Prohibition Against Lobbying Activities. Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted.

Housing entities established by an Indian tribe as a result of the exercise of the tribe's sovereign power are excluded from coverage of the Byrd Amendment, but housing entities established under State law are not excluded from the statute's coverage.

(E) Section 102 of the HUD Reform Act; Documentation and Public Access Requirements. Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) Documentation and public access requirements. HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) Disclosures. HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(F) Section 103—HUD Reform Act. HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of

applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.)

Dated: July 20, 1998.

Deborah Vincent,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 98–19676 Filed 7–20–98; 2:24 pm]

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federal register

Thursday
July 23, 1998

Part V

The President

Presidential Determination No. 98–33 of July 15, 1998—Presidential Determination on the Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of Romania Concerning Peaceful Uses of Nuclear Energy

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Title 3—

The President

Presidential Determination No. 98–33 of July 15, 1998

Presidential Determination on the Proposed Agreement for Cooperation Between the Government of the United States of America and the Government of Romania Concerning Peaceful Uses of Nuclear Energy

Memorandum for the Secretary of State, [and] the Secretary of Energy

I have considered the proposed Agreement for Cooperation Between the Government of the United States of America and the Government of Romania Concerning Peaceful Uses of Nuclear Energy, along with the views, recommendations, and statements of the interested agencies.

I have determined that the performance of the agreement will promote, and will not constitute an unreasonable risk to, the common defense and security. Pursuant to section 123b. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153(b)), I hereby approve the proposed agreement and authorize you to arrange for its execution.

The Secretary of State is authorized and directed to publish this determination in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, July 15, 1998.

[FR Doc. 98–19917
Filed 7–22–98; 8:45 am]
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Mercury; measurement method; comments due by 7-27-98; published 5-26-98

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LIST OF PUBLIC LAWS

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H.R. 1635/P.L. 105–203

National Underground Railroad Network to Freedom Act of 1998 (July 21, 1998; 112 Stat. 678)

S. 2316/P.L. 105–204

To require the Secretary of Energy to submit to Congress a plan to ensure that all amounts accrued on the books of the United States Enrichment Corporation for the disposition of depleted uranium hexafluoride will be used to treat and recycle depleted uranium hexafluoride. (July 21, 1998; 112 Stat. 681)

Last List July 21, 1998

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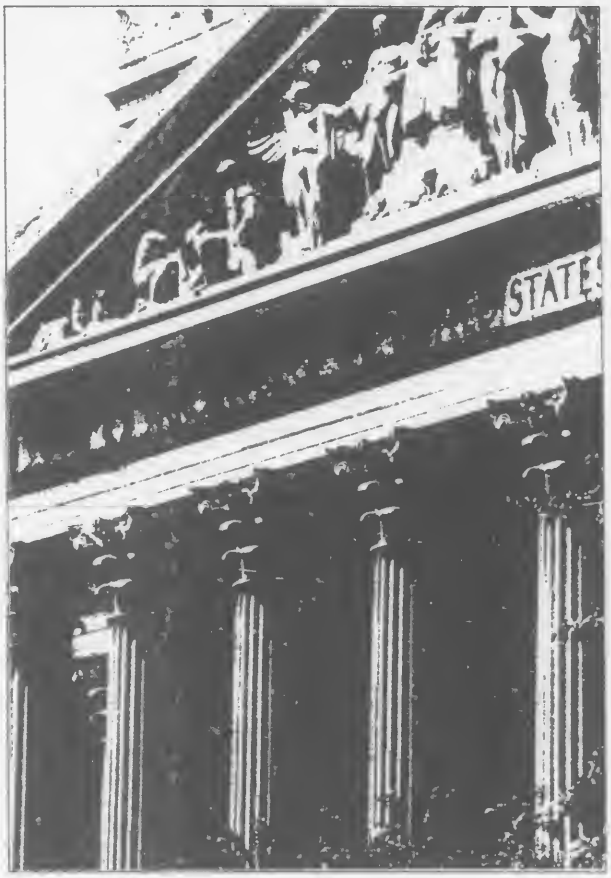

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