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FEDERAL RESERVE SYSTEM

12 CFR Parts 220 and 224

[Regulations T and X]

Securities Credit Transactions; List of Marginable OTC Stocks; List of Foreign Margin Stocks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; determination of applicability of regulations.

SUMMARY: The List of Marginable OTC Stocks (OTC List) is composed of stocks traded over-the-counter (OTC) in the United States that qualify as *margin securities* under Regulation T, Credit by Brokers and Dealers. The List of Foreign Margin Stocks (Foreign List) is composed of foreign equity securities that qualify as *margin securities* under Regulation T. The OTC List and the Foreign List are published four times a year by the Board. This document sets forth additions to and deletions from the previous OTC List and the previous Foreign List.

EFFECTIVE DATE: May 11, 1998.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452–2837, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD) at (202) 452–3544.

SUPPLEMENTARY INFORMATION: Listed below are the deletions from and additions to the Board's OTC List, which was last published on January 27, 1998 (63 FR 3805), and became effective February 9, 1998. A copy of the complete OTC List is available from the Federal Reserve Banks.

The OTC List includes those stocks traded over-the-counter in the United States that qualify as *OTC margin stock* under Regulation T (12 CFR Part 220) by meeting the requirements of section 220.11(a). This determination also affects the applicability of Regulation X (12 CFR Part 224). These stocks have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant regulation in the same fashion as exchange-traded securities. The OTC List also includes any OTC stock designated for trading in the national market system (NMS security) under rules approved by the Securities and Exchange Commission (SEC). Additional OTC stocks may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable upon the effective date of their NMS designation. The names of these stocks are available at the SEC and at the National Association of Securities Dealers, Inc.

Pursuant to amendments recently adopted by the Board (see, 63 FR 2805, January 16, 1998), the definition of *OTC margin stock* in § 220.2 and the eligibility criteria for these stocks in § 220.11(a) and (b) will be removed from Regulation T on January 1, 1999, and broker-dealers will be permitted to extend margin credit against all equity securities listed in the Nasdaq Stock Market. Lenders subject to Regulation T and borrowers subject to Regulation X who are required under § 224.3(a) to conform credit they obtain to Regulation T will use the OTC List until publication of the next OTC List, anticipated for August 1998. The Board will cease publication of the OTC List in 1999.

Also listed below are the deletions from and additions to the Foreign List, which was last published on January 27, 1998, (63 FR 3805), and became effective February 9, 1998. The Foreign List is used solely by lenders subject to Regulation T. A copy of the complete Foreign List is available from the Federal Reserve Banks.

Public Comment and Deferred Effective Date

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the Lists specified in 12 CFR 207.6(a) and (b), 220.17(a), (b), (c) and (d), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of these Lists as soon as possible. The Board has responded to a request by the public and allowed approximately a two-week delay before the Lists are effective.

List of Subjects

12 CFR Part 220

Banks, Banking, Brokers, Credit, Margin, Margin requirements, Investments, National Market System (NMS Security), Reporting and recordkeeping requirements, Securities.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with 12 CFR 220.2 and 220.11, there is set forth below a listing of deletions from and additions to the OTC List and the Foreign List.

Deletions From The List Of Marginable OTC Stocks

Stocks Removed For Failing Continued Listing Requirements

4HEALTH, INC.
Warrants (expire 01–15–1998)
ACCUMED INTERNATIONAL, INC.
No par common
AEGIS CONSUMER FUNDING GROUP, THE
$.01 par common
AMERICAN UNITED GLOBAL, INC.
$.01 par common
Warrants (expire 07–31–1998)
AMTRUST CAPITAL CORPORATION
$.01 par common
APS HOLDING CORPORATION
Class A,
$.01 par common
ARNOLD PALMER GOLF COMPANY
$.50 par common
BANC ONE CORPORATION (Ohio)

Series C, no par convertible Preferred
BANKUNITED FINANCIAL CORPORATION (Florida)
Series 1993, $.01 par non-cumulative convertible preferred
$.01 par non-cumulative perpetual preferred
BIRD CORPORATION
$1.00 par common
BOYDS WHEELS, INC.
No par common
CAM DESIGNS, INC.
Warrants (expire 07–24–2000)
CAMPO ELECTRONICS, APPLIANCES AND COMPUTERS, INC.
$.10 par common
CHANTAL PHARMACEUTICAL CORPORATION
$.01 par common
CITYSCAPE FINANCIAL CORPORATION
$.01 par common
COMPUTER LANGUAGE RESEARCH, INC.
$.01 par common
CONSOLIDATED STAINLESS, INC.
$.01 par common
CONSUMERS FINANCIAL CORPORATION
8.5% Series A, convertible preferred
COUNTRY STAR RESTAURANTS, INC.
$.001 par common
DATAMARINE INTERNATIONAL, INC.
$.01 par common
DEFLECTA-SHIELD CORPORATION
$.01 par common
DESWELL INDUSTRIES, INC.
Warrants (expire 07–17–2000)
EQUITEX, INC.
$.001 par common
FIRST ENTERPRISE FINANCIAL GROUP, INC.
$.01 par common
FIRST ROBINSON FINANCIAL CORPORATION
$.01 par common
GENERAL ACCEPTANCE CORPORATION
No par common
HELISYS, INC.
$.001 par common
HEMASURE, INC.
$.01 par common
INTEL CORPORATION
Warrants (expire 03–14–1998)
KAMAN CORPORATION
Depositary Shares
KWG RESOURCES, INC.
No par common
MANHATTAN BAGEL COMPANY, INC.
No par common
MOLTEN METAL TECHNOLOGY, INC.
$.01 par common
NORTH COAST ENERGY, INC.
Series B, $.01 par cumulative convertible preferred
NORTHWEST TELEPRODUCTIONS, INC.
$.01 par common
OMNIS TECHNOLOGY CORPORATION
$.01 par common
PHOTRAN CORPORATION
No par common
PRECISION STANDARD, INC.
$.0001 par common
PROCEPT, INC.
$.01 par common
QUALITY DINO ENTERTAINMENT, LTD.
No par common
RELIANCE ACCEPTANCE GROUP, INC.
$.01 par common
RHEOMETRIC SCIENTIFIC, INC.
No par common
ROSE'S HOLDINGS, INC.
No par common
Warrants (expire 04–28–2002)
SI DIAMOND TECHNOLOGY, INC.
$.001 par common
TELEGEN CORPORATION
No par common
TLII LIQUIDATING CORPORATION
$.01 par common
UNIVERSAL HOSPITAL SERVICES, INC.
$.01 par common
UNIVERSAL SEISMIC ASSOCIATES, INC.
$.0001 par common
VDC CORPORATION, LTD.
$.10 par common
VIDEOLAN TECHNOLOGIES, INC.
$.01 par common

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

AARON RENTS, INC.
$.50 par common
$1.00 par common
ADVANTAGE BANCORP, INC. (Wisconsin)
$.01 par common
ALLIED HOLDINGS, INC.
No par common
AMTI COMMUNICATIONS CORPORATION
$.20 par common
AMERICA FIRST PARTICIPATING/ PREFERRED EQUITY MORTGAGE LP
Exchangeable units of limited partnership
AMERICAN GREETINGS CORPORATION
Class A, $1.00 par common
AMERICAN VANGUARD CORPORATION
$.10 par common
AMERUS LIFE HOLDINGS, INC.
Class A, no par common
ARBOR DRUGS, INC.
$.01 par common
ATC GROUP SERVICES, INC.
$.01 par common
Class C, warrants (expire 04–30–1998)
AUTOBOND ACCEPTANCE CORPORATION
No par common
BALLY TOTAL FITNESS HOLDING CORPORATION
$.01 par common
BALLY'S GRAND, INC.
$.01 par common
Warrants (expire 08–19–2000)
BGS SYSTEMS, INC.
$.10 par common
BLIMPIE INTERNATIONAL, INC.
$.01 par common
BROOKS FIBER PROPERTIES, INC.
$.01 par common
CANNON EXPRESS, INC.
$.01 par common
CHARTWELL LEISURE, INC.
$.01 par common
CHIPS AND TECHNOLOGIES, INC.
$.01 par common
CHITTENDEN CORPORATION
$1.00 par common
COMMNET CELLULAR, INC.
$.001 par common
COMMUNICATIONS CENTRAL, INC.
$.01 par common
COMPUSERVE CORPORATION
$.01 par common
CONTINENTAL CIRCUITS CORPORATION
$.01 par common
COTELLIGENT GROUP, INC.
$.01 par common
COVENANT BANCORP, INC.
$5.00 par common
CYPROS PHARMACEUTICAL CORPORATION
No par common

DBA SYSTEMS, INC.
$.10 par common
EL CHICO RESTAURANTS, INC.
$.10 par common
EMERALD ISLE BANCORP, INC. (Massachusetts)
$1.00 par common
FFVA FINANCIAL CORPORATION
$.10 par common
FIRST ALERT, INC.
$.01 par common
FIRST STATE CORPORATION
$1.00 par common
FIRST UNITED BANCORPORATION (South Carolina)
$1.67 par common
FORT WAYNE NATIONAL CORPORATION
No par common
FULCRUM TECHNOLOGIES, INC.
No par common
GEORGE MASON BANKSHARES, INC. (Virginia)
$1.66 par common
GRANTE FINANCIAL, INC.
$.001 par common
GREAT FINANCIAL CORPORATION
$.01 par common

GULF SOUTH MEDICAL SUPPLY, INC.
$.01 par common
HEARTSTREAM, INC.
$.001 par common
HECTOR COMMUNICATIONS CORPORATION
$.01 par common
HOLMES PROTECTION GROUP, INC.
$.01 par common
HOMECORP, INC.
$.01 par common
HUGOTON ENERGY CORPORATION
No par common
ILC TECHNOLOGY, INC.
No par common
IMPACT SYSTEMS, INC.
No par common
INDIVIDUAL, INC.
$.01 par common
INTERNATIONAL PETROLEUM CORPORATION
No par common
KAPSON SENIOR QUARTERS CORPORATION
$.01 par common
KEY FLORIDA BANCORP, INC.
$.01 par common
LASER INDUSTRIES LIMITED
Ordinary shares (par NIS 0.0001)
LEXFORD, INC.
No par common
LIFE BANCORP, INC. (Virginia)
$.01 par common
LIN TELEVISION CORPORATION
$.01 par common
MacDERMID, INCORPORATED
No par common
MAS TECHNOLOGY LIMITED

American Depositary Receipts
MID CONTINENT BANCSHARES, INC. (Kansas)
$.10 par common
MIDWEST FEDERAL FINANCIAL CORPORATION
$.01 par common
ML BANCORP, INC. (Pennsylvania)
$.01 par common
MOBILE GAS SERVICE CORPORATION
$2.50 par common
MOOVIES, INC.
$.001 par common
NETCOM ON-LINE COMMUNICATION SERVICES, INC.
$.01 par common
NEW JERSEY STEEL CORPORATION
$.01 par common

NORWICH FINANCIAL CORP.
$1.00 par common
OMNI INSURANCE GROUP, INC.
$.01 par common
ONBANCORP, INC. (New York)
$1.00 par common
OREGON METALLURGICAL CORPORATION
$1.00 par common
ORION NETWORK SYSTEMS, INC.
$.01 par common
PEMBRIDGE, INC.
No par common
PERPETUAL BANK, A FEDERAL SAVINGS BANK (South Carolina)
$1.00 par common
PERSEPTIVE BIOSYSTEMS, INC.
$.01 par common
PLASTI-LINE, INC.
$.001 par common
PROXIMA CORPORATION
$.001 par common
PURETEC CORPORATION
$.01 par common
RAPTOR SYSTEMS, INC.
$1.00 par common
REDWOOD TRUST, INC.
$.01 par common
9.74% Class B,
$.01 par cumulative convertible preferred
REEDS JEWELERS, INC.
$.10 par common
ROTTLUND COMPANY, INC., THE
$.01 par common
SAGEBRUSH, INC.
No par common
SANCO CORPORATION
$.01 par common

SHARED TECHNOLOGIES FAIRCHILD, INC.
$.001 par common
SHOREWOOD PACKAGING CORPORATION
$.01 par common
SIGNATURE BRANDS USA, INC.
$.01 par common
SOFTWARE ARTISTRY, INC.
No par common
SPINE-TECH, INC.
$.01 par common
SPINNAKER INDUSTRIES, INC.
No par common
Class A, no par common
STAGE STORES, INC.
$.01 par common
STATE OF THE ART, INC.
No par common
STECK-VAUGHN PUBLISHING CORPORATION
$.01 par common
STOKELY USA, INC.
$.05 par common
SUBURBAN OSTOMY SUPPLY CO., INC.
No par common
SYMETRICS INDUSTRIES, INC.
$.25 par common
TECHNOLOGY MODELING ASSOCIATES, INC.
No par common
TYSONS FINANCIAL CORPORATION
$5.00 par common
UNIVERSAL OUTDOOR HOLDINGS, INC.
$.01 par common
VIDEO SERVICES CORPORATION
$.01 par common
VISIGENIC SOFTWARE, INC.
$.001 par common
WAUSAU PAPER MILLS CORPORATION
$.50 par common
XPEDITE SYSTEMS, INC.
$.01 par common

Additions to the List of Marginable OTC Stocks

ACSYS, INC.
No par common
ADVANCE FINANCIAL BANCORP.
$.10 par common
ALLERGAN SPECIALTY THERAPEUTICS, INC.
Class A, $.01 par common
ALTAIR INTERNATIONAL, INC.
No par common
AMBASSADOR BANK OF THE COMMONWEALTH
$4.00 par common
AMERICAN CHAMPION ENTERTAINMENT, INC.
$.0001 par common
AMERICAN DENTAL PARTNERS, INC.
$.01 par common
AMERICAN SAFETY INSURANCE GROUP, LTD.
$.01 par common
ANNAPOLIS NATIONAL BANCORP, INC.
$.01 par common
ANNUITY AND LIFE RE HOLDINGS, LTD.
$1.00 par common
ARTISAN COMPONENTS, INC.
$.001 par common
ASHA CORPORATION
$.0001 par common
ASSOCIATED MATERIALS INCORPORATED
$.0025 par common
ASTROPOWER, INC.
$.01 par common
ATLANTIC GULF COMMUNITIES CORPORATION
Warrants Series A, (expire 06–23–2004)
Warrants Series B, (expire 06–23–2004)
Warrants Series C, (expire 06–23–2004)
ATLANTIC PHARMACEUTICALS, INC.
$.001 par common
ATLANTIC REALTY TRUST
Shares of beneficial interest
AVIATION GROUP, INC.
$.01 par common
BANK RHODE ISLAND
$1.00 par common
BIG BUCK BREWERY & STEAKHOUSE, INC.
$.01 par common
BIRNER DENTAL MANAGEMENT SERVICES, INC.
No par common
BMJ MEDICAL MANAGEMENT, INC.
$.001 par common
BNC MORTGAGE, INC.
$.001 par common
BOLLE, INC.
$.01 par common
BROKLINE BANCORP, INC.
$.01 par common
C & F FINANCIAL CORPORATION
$1.00 par common
CAPITAL AUTOMOTIVE REIT
Shares of beneficial interest
CAREER EDUCATION CORPORATION
$.01 par common
CAVALRY BANCORP, INC.
No par common
CCA COMPANIES, INC.
$.001 par common
CENTURY BANCSHARES, INC.
$1.00 par common
COAST FEDERAL LITIGATION CONTINGENT PAYMENT RIGHTS TRUST
Contingent Payment Rights
COLONY BANKCORP, INC.
$10.00 par common
COLUMBIA FINANCIAL OF KENTUCKY, INC.
No par common
COLUMBIA SPORTSWEAR COMPANY
No par common
COMMNET CELLULAR, INC.
$.001 par common
COMPASS INTERNATIONAL SERVICES CORPORATION
$.01 par common
COMPLETE BUSINESS SOLUTIONS, INC.
No par common
CONDOR TECHNOLOGY SOLUTIONS, INC.
$.01 par common
COWLITZ BANCORPORATION
No par common
CULTURALACCESS WORLDWIDE, INC.
$.01 par common
CURAGEN CORPORATION
$.01 par common
CYTOCLONAL PHARMACEUTICS, INC.
$.01 par common
DECOMA INTERNATIONAL, INC.
Class A, common shares
DISPATCH MANAGEMENT SERVICES CORPORATION
$.01 par common
DOCUCORP INTERNATIONAL, INC.
$.01 par common
DOUBLECLICK, INC.
$.001 par common
DRYPERS CORPORATION
$.001 par common
DURA AUTOMOTIVE SYSTEMS, INC.
Convertible Trust Preferred
E–NET, INC.
$.01 par common
EARTHSHELL CORPORATION
$.01 par common
EDAC TECHNOLOGIES CORPORATION
$.0025 par common

ELCOTEL, INC.

Redeemable warrants
ELDER-BEERMAN STORES CORPORATION, THE
No par common
ENERGYSOUTH, INC.
$2.50 par common
ESQUIRE COMMUNICATIONS, LTD.
$.01 par common
EXODUS COMMUNICATIONS
$.001 par common
EXTENDED SYSTEMS INCORPORATED
$.001 par common
FIDELITY BANKSHARES, INC.
Trust preferred securities
FIRST CONSULTING GROUP, INC.
$.001 par common
FIRST SOUTH AFRICA CORPORATION
$.01 par common
FLAGSTAR BANCORP, INC.
Class A, preferred
FLORAFAX INTERNATIONAL, INC.
$.01 par common
FORSOFT, LTD.
Ordinary shares (ISL .001)
FRONTIER FINANCIAL CORPORATION
No par common
GASTON FEDERAL BANCORP, INC.
$1.00 par common
GB FOODS CORPORATION
$.08 par common
GENESIS MICROCHIP, INC.
No par common
GETTY IMAGES, INC.
$.01 par common

GLOBAL TELESYSTEMS GROUP, INC.
$.10 par common
GRAND COURT LIFESTYLES, INC.
$.01 par common
GST TELECOMMUNICATIONS, INC.
No par common
GULF WEST BANKS, INC.
No par common
HAWKER PACIFIC AEROSPACE
No par common
HEADLANDS MORTGAGE COMPANY
No par common
HENLEY HEALTHCARE, INC.
$.01 par common
HERBALIFE INTERNATIONAL, INC.
DECS Trust III
HERITAGE BANCORP, INC. (South Carolina)
$.01 par common
HOLLIS-EDEN PHARMACEUTICALS
$.01 par common
HOME LOAN FINANCIAL CORPORATION
No par common
HOPFED BANCORP, INC. (Kentucky)
$.01 par common

HORIZON MEDICAL PRODUCTS, INC.
$.001 par common
HORIZON OFFSHORE, INC.
$1.00 par common
ICON CMT CORPORATION
$.001 par common
INDEPENDENCE COMMUNITY BANK CORPORATION
$.01 par common
INDIGO AVIATION AKIEBOLAG
American Depositary Shares
INDUSTRIAL HOLDINGS, INC.
Series D, warrants (expire 01–14–2000)
INFORMATION ANALYSIS INCORPORATED
$.01 par common
INTERNATIONAL BANCSHARES CORPORATION
$1.00 par common
INTERNATIONAL FIBERCOM, INC.
No par common
INVESTORS REAL ESTATE TRUST
No par shares of beneficial interest
ISOMET CORPORATION
$1.00 par common
ISS GROUP, INC.
$.001 par common

JAMESON INNS, INC.
Series A, preferred
JPS TEXTILE GROUP
$.01 par common
LADISH CO., INC.
$.01 par common
LEVEL 3 COMMUNICATIONS, INC.
$.01 par common
LJL BIOSYSTEMS, INC.
$.001 par common
LUNDIN OIL AB
Global Depositary Receipts (.50 SEK)
MARKET FINANCIAL CORPORATION
No par common
MERCURY COMPUTER SYSTEMS
$.01 par common
MICROMUSE, INC.
$.01 par common
MIDWEST BANC HOLDINGS, INC.
$.01 par common
MILLENIUM SPORTS MANAGEMENT, INC.
Warrants (expire 06–30–1998)
MILLER EXPLORATION COMPANY
$.01 par common
MTI TECHNOLOGY CORPORATION
$.001 par common
MULTIMEDIA GAMES, INC.
Class A warrants (expire 11–12–2001)
NANOGEN, INC.
$.001 par common
NARA BANK NATIONAL ASSOCIATION
$3.00 par common
NATIONAL CITY BANCSHARES, INC. (Indiana)
Cumulative Trust Preferred
NET.B@NK, INC.
$.01 par common
NORTH AMERICAN SCIENTIFIC, INC.
$.01 par common
NORTH VALLEY BANCORP
No par common
NORTHERN BANK OF COMMERCE
$1.00 par common
NORWOOD FINANCIAL CORPORATION
$.10 par common
NUTMEG FEDERAL SAVINGS & LOAN ASSOCIATION
$.005 par common
NUTRACEUTICAL INTERNATIONAL CORPORATION
$.01 par common
OMEGA WORLDWIDE, INC.
$.10 par common
ON STAGE ENTERTAINMENT, INC.
$.01 par common
ONLINE SYSTEM SERVICES, INC.
No par common
OPTELECOM, INC.
$.03 par common
PAULSON CAPITAL CORPORATION
No par common
PC CONNECTION, INC.
$.01 par common
PENN OCTANE CORPORATION
$.01 par common
PENNSYLVANIA MANUFACTURERS CORPORATION
$5.00 par common
PITTSBURGH HOME FINANCIAL CORPORATION
8.56% cumulative trust preferred
PIZZA INN, INC.
$.01 par common
PROVINCE HEALTHCARE COMPANY
$.01 par common
QUEEN SAND RESOURCES, INC.
$.0015 par common
REPUBLIC BANKING CORPORATION OF FLORIDA
$.01 par common
RICHMOND COUNTY FINANCIAL CORPORATION
$.01 par common
ROYAL OLYMPIC CRUISE LINES, INC.
$.01 par common
SECOND NATIONAL FINANCIAL CORPORATION
$2.50 par common
SHIRE PHARMACEUTICALS GROUP, PLC
American Depositary Shares
SHOE PAVILION, INC.
$.001 par common
SI TECHNOLOGIES, INC.
$.01 par common
SMED INTERNATIONAL, INC.
No par common
SMITH CORONA CORPORATION
$.001 par common
SONOSIGHT, INC.
$.01 par common
SOUTH UMPQUA STATE BANK
$.833 par common
SOUTHBANC SHARES, INC.
$.01 par common
SPORTSMAN'S GUIDE, INC., THE
$.01 par common
STERLING FINANCIAL CORPORATION (Pennsylvania)
$5.00 par common
STEVEN MYERS & ASSOCIATES, INC.
No par common
SUNPHARM CORPORATION
$.0001 par common
SURMODICS, INC.
$.05 par common
SYMPHONIX DEVICES, INC.
$.001 par common
TRANSGENE S.A.
American Depositary Receipts
UNITED INVESTORS REALTY TRUST
No par common
UNIVERSAL DISPLAY CORPORATION
$.10 par common
USN COMMUNICATIONS, INC.
$.01 par common
VERISIGN, INC.
$.001 par common
VIAGRAFIX CORPORATION
$.01 par common
VISUAL NETWORKS, INC.
$.01 par common
VYSIS, INC.
$.001 par common
WEBSTER FINANCIAL CORPORATION
Series B, 8.625% cumulative redeemable preferred
WILLIAMS INDUSTRIES, INC.

$.01 par common
WILSHIRE REAL ESTATE INVESTMENT TRUST, INC.
$.01 par common

Deletions From the Foreign Margin List

Australia

AAPC LIMITED
Ordinary shares, par A$0.50
ICI AUSTRALIA LIMITED
Ordinary shares, par A$1.00

Brazil

BRASMOTOR S.A.
No par preferred
COMPANHIA SIDERURGICA BELGO MINEIR
No par common
COMPANHIA SIDERURGICA BELGO MINEIR
No par non-voting, preferred
COMPANHIA SIDERURGICA TUBARAO
No par non-voting, Preferred B
COMPANHIA VIDRARIA SANTA MARINA ON
No par common
LIGHT SERVICIOS DE ELECTRICIDADE S.A.
No par common

Canada

DOMINION TEXTILE INC.
No par common
NORCEN ENERGY RESOURCES LIMITED
No par Subordinate-voting

France

BERTRAND FAURE SA
Ordinary shares, par 5 French
CETELEM SA
Ordinary shares, par 45 French
COMPAGNIE BANCAIRE SA
Ordinary shares, par 100 French

Germany

ADIDAS AG
Bearer shares par DM 50
VICTORIA HOLDING AG
Registered Shares, par DM 50

Japan

AMADA METRECS CO., LTD.
¥ 50 par common
AOKI INTERNATIONAL CO., LTD
¥ 50 par common
ASAHI DIAMOND INDUSTRIAL CO., LTD.
¥ 50 par common
COSMO SECURITIES CO., LTD.
¥ 50 par common
DAIICHI CORP.
¥ 50 par common
DAIKEN CORP.
¥ 50 par common
GREEN CROSS CORPORATION
¥ 50 par common
HEIWADO CO., LTD.
¥ 50 par common
HOKKAIDO BANK, LTD.
¥ 50 par common
HOKKOKU BANK, LTD.
¥ 50 par common
IZUMI CO., LTD.
¥ 50 par common
KANKAKU SECURITIES CO., LTD.
¥ 50 par common
KAYABA INDUSTRY CO., LTD.
¥ 50 par common
KENWOOD CORP.
¥ 50 par common
KOA OIL CO., LTD.
¥ 50 par common
KYODO PRINTING CO., LTD.
¥ 50 par common
MARUETSU INC.
¥ 50 par common
MITSUBISHI CABLE INDUSTRIES, LTD.
¥ 50 par common
MITSUI REAL ESTATE SALES CO., LTD.
¥ 50 par common
NORITZ CORP.
¥ 50 par common
OKAMOTO INDUSTRIES, INC.
¥ 50 par common
OKASAN SECURITIES CO., LTD.
¥ 50 par common
RENGO CO., LTD.
¥ 50 par common
S X L CORP.
¥ 50 par common
SANKYO ALUMINIUM INDUSTRY CO., LTD.
¥ 50 par common
SHINMAYWA INDUSTRIES, LTD.
¥ 50 par common
SS PHARMACEUTICAL CO., LTD.
¥ 50 par common
TADANO, LTD.
¥ 50 par common
TOAGOSEI CO. LTD.
¥ 50 par common
TOKYOTOKEIBA CO., LTD.
¥ 20 par common
TOYO COMMUNICATION EQUIPMENT CO.,
¥ 50 par common
TOYO ENGINEERING CORP.
¥ 50 par common
TOYO EXTERIOR CO., LTD.
¥ 50 par common
TOYOTA AUTO BODY CO., LTD.
¥ 50 par common
UNIDEN CORP.
¥ 50 par common
WAKO SECURITIES CO., LTD.
¥ 50 par common

Norway

STORLI ASA
B Ordinary Common, par 10 Norwegian
STORLI ASA
A Ordinary Common, par 10 Norwegian

South Africa

KLOOF GOLD MINING COMPANY LIMITED
Ordinary shares, par 0.25 South

Spain

SOCIEDAD ESPANOLA DE CARBUROS
Bearer shares, par 1000 pesetas

United Kingdom

ALLIED COLLOIDS GROUP PLC
Ordinary shares, par 10 p
BURTON GROUP PLC, THE
Ordinary shares, par 10 p
KWIK SAVE GROUP PLC
Ordinary shares, par 10 p
REUTERS HOLDINGS PLC
B Ordinary, par 2.5 p
T & N PLC
Ordinary shares, par L1
VENDOME LUXURY GROUP PLC
Ordinary shares, par 10 p

Additions to the Foreign Margin List

Australia

ORICA LIMITED
Ordinary shares, par A$1.00

Brazil

COMPANHIA SIDERURGICA TUBARAO ON
B preferred shares
COMPANHIA SIDERURGICA TUBARAO PN
Preferred B shares
LIGHT SERVICIOS DE ELECTRICIDADE
No par common

Denmark

RATIN A/S
Series B, par 1 Danish krone
RATIN A/S
Series A, par 1 Danish krone

Germany

ADIDAS—SALOMON AG
Bearer shares, par DM 50
ERGO VERSICHERUMGS GRUPPE
Ordinary shares, par DM 5

Greece

ALPHA CREDIT BANK, S.A.
Common registered, par Greek
ALUMINIUM CO. OF GREECE, S.A.
Common registered, par US$27.50

ALUMINIUM CO. OF GREECE, S.A.
Preference, par Greek drachmas 700
ASPIS PRONIA GENERAL INSURANCES,
Common registered, par Greek
ATHENS MEDICAL CENTER, S.A.
Common registered, par Greek
ATTICA ENTERPRISES, S.A.
Common, par Greek drachmas 200
BANK OF PIRAEUS, S.A.
Common registered, par Greek
CHIPITA INTERNATIONAL, S.A.
Common bearer, par Greek drachmas
COMMERCIAL BANK OF GREECE
Common registered, par Greek
DELTA DAIRY, S.A.
Common, par Greek drachmas 200
DELTA DAIRY, S.A.
Preferrence, par Greek drachmas 200
ELAIS OLEAGINOUS PRODUCTION, S.A.
Common, par Greek drachmas 575
ELVAL ALUMINUM PROCESS CO., S.A.
Common bearer, par Greek drachmas
ERGO BANK, S.A.
Common registered, par Greek
ETHNIKI GENERAL INSURANCE CO., S.A.
Common registered, par Greek
GOODYS, S.A.
Common bearer, par Greek drachmas
HALKOR, S.A.
Common bearer, par Greek drachmas
HELLAS CAN-PACKAGING MANUFACTURERS,
Common, par Greek drachmas 300
HELLENIC BOTTLING CO., S.A.
Common bearer, par Greek drachmas
HELLENIC SUGAR INDUSTRY, S.A.
Common bearer, par Greek drachmas
HELLENIC TELECOM ORGANIZATION, S.A.
Common registered, par Greek
HERACLES GENERAL CEMENT CO.
Common registered, par Greek
INTRACOM, S.A.
Preference registered, par Greek
INTRACOM, S.A.
Common registered, par Greek
INTRASOFT, S.A.

Common registered, par Greek
IONIAN & POPULAR BANK OF GREECE,
Common registered, par Greek
MICHANIKI, S.A.
Common registered, par Greek
MICHANIKI, S.A.
Preference registered, par Greek
MYTILINEOS HOLDINGS, S.A.
Common bearer, par Greek drachmas
N.I.B.I.D. (NATIONAL INVESTMENT BANK
Common registered, par Greek
N.I.B.I.D. (NATIONAL INVESTMENT BANK
Preference registered, par Greek
NATIONAL BANK OF GREECE
Common registered, par Greek
NATIONAL MORTGAGE BANK, S.A.
Common registered, par Greek
PAPASTRATOS CIGARETTE CO., S.A.
Common, par Greek drachmas 200
SILVER & BARYTE ORES MINING CO.,
Common bearer, par Greek drachmas
TITAN CEMENT CO.
Preference registered, par Greek
TITAN CEMENT CO.
Common registered, par Greek

Italy

BANCA DI ROMA, SPA
Ordinary shares, par 500 lira

Mexico

GRUPO MODELO S.A.
Class C, no par common
TELEVISION AZTECA S.A. (CPO)
No par common
TUBOS DE ACERO MEXICO S.A.
No par common

Norway

ODFJELL ASA
B Ordinary shares, par 10 Norwegian
ODFJELL ASA
A Ordinary shares, par 10 Norwegian

Portugal

BANCO ESPINTO SANTO E COMERCIAL DE
Registered, par ESC 1,000
BANCO MELLO, S.A.
Registered, par ESC 1,000
BANCO TOTTA & ACORES, S.A.
Registered, par ESC 1,000
BCP (BANCO COMERCIAL PORTUGUES)
Registered, par ESC 1,000
BPI–SGPS (BANCO PORTUGEUES DE)
Registered, par ESC 1,000
BRISA (AUTO-ESTRADAS DE PORTUGAL)
Registered, par ESC 1,000
CIMPOR (CIMENTOS DE PORTUGAL)
Registered, par ESC 1,000
COMPANHIA DE SEGUROS TRANQUILIDADE
Registered, par ESC 1,000
CREDITO PREDIAL PORTUGUESE, S.A.
Registered, par ESC 1,000
EDP (ELECTRICIDADE DE PORTUGAL),
Registered, par ESC 1,000
INPARSA (Industrial Participacoes)
Ordinary, par ESC 1,000
JERONIMO MARTINS (ESTABELECIMENTOS)
Ordinary, par ESC 1,000
PORTUCEI INDUSTRIAL, S.A.
Registered, par ESC 1,000
PORTUGAL TELECOM, S.A.
Registered, par ESC 1,000
SEMAPA, S.A.
Ordinary, par ESC 1,000
SONAE INDUSTRIA, S.A.
Ordinary, par ESC 1,000
SONAE INVESTIMENTOS (SOCIETE)
Ordinary, par ESC 1,000
TELECEL COMMUNICACOES PESSOAIS
Ordinary, par ESC 1,000

Singapore

INCHCAPE MOTORS, LTD.
Ordinary shares, par S$.50

South Africa

GOLD FIELDS, LIMITED
Ordinary shares, par .01 South

United Kingdom

DEBENHAMS PLC
Ordinary shares, par 10 p
REUTERS GROUP PLC
Ordinary shares, par 25 p

By order of the Board of Governors of the Federal Reserve System, acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.7(f)(10)), April 22, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–11221 Filed 4–27–98; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–132–AD; Amendment 39–10495; AD 98–09–14]

RIN 2120–AA64

Airworthiness Directives; Diamond Aircraft Industries Models HK 36 TTS and HK 36 TTC Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Diamond Aircraft Industries (Diamond) Models HK 36 TTS and HK 36 TTC sailplanes. This AD requires inspecting the engine turbocharger oil-pressure line for the correct banjo bolt. The correct banjo bolt will have a valve seat, instead of a built-in orifice. If the banjo bolt does not have a valve seat, then this action will require replacing the banjo bolt with one that has a valve seat, and repairing or replacing the turbocharger. This AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for Austria. The actions specified by this AD are intended to prevent possible loss of engine power, which could result in possible loss of control of the sailplane.

DATES: Effective June 14, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Diamond Aircraft Industries, G.m.b.H., N.A. Otto-Strabe 5, A–2700, Wiener Neustadt, Austria. 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–132–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 certain Diamond Models HK 36 TTS and HK 36 TTC sailplanes that are equipped with Bombardier ROTAX (ROTAX) 914 F series engines, serial numbers 4,420.011 through 4,420.058, was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 11, 1998 (63 FR 6882). The NPRM proposed to require inspecting the banjo bolt for a valve seat. If the banjo bolt does not have a valve seat, this AD will require replacing the banjo bolt, and repairing or replacing the turbocharger. Accomplishment of the proposed installation will be in accordance with Bombardier ROTAX Technical Bulletin No. 914–04, dated August, 1997.

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

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 4 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 1 workhour per sailplane to accomplish this inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $240 or $60 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:

98–09–14 Diamond Aircraft Industries: Amendment 39–10495; Docket No. 97–CE–132–AD.

Applicability: Model HK 36 TTS and HK 36 TTC sailplanes, all serial numbers, certificated in any category, that are equipped with Bombardier ROTAX 914 F series engines, serial numbers 4,420.011 through 4,420.058.

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 (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 within the next 10 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent possible loss of engine power, which could result in possible loss of control of the sailplane, accomplish the following:

(a) Inspect the Bombardier ROTAX engine's turbocharger oil-pressure line for a banjo bolt with a valve seat, part number (P/N) 941 782 (or an FAA-approved equivalent part number), in accordance with the Instructions section of Bombardier ROTAX Technical Bulletin No. 914–04, dated August, 1997.

Note 2: An incorrect banjo bolt would have a built-in orifice, instead of a valve seat.

(b) If an incorrect banjo bolt is installed, prior to further flight, replace the banjo bolt with one that has P/N 941 782 (or an FAA-approved equivalent part number), and repair or replace the turbocharger in accordance with the Instructions section of Bombardier ROTAX Technical Bulletin No. 914–04, dated August, 1997.

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

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

(e) Questions or technical information related to Bombardier ROTAX Technical Bulletin No. 914–04, dated August 1997, should be directed to Diamond Aircraft Industries, G.m.b.H., N.A. Otto-Strabe 5, A–2700, Wiener Neustadt, Austria. 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.

(f) The inspection and replacement required by this AD shall be done in accordance with Bombardier ROTAX Technical Bulletin No. 914–04, dated August, 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 Diamond Aircraft Industries, G.m.b.H., N.A. Otto-Strabe 5, A–2700, Wiener Neustadt, Austria. 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 4: The subject of this AD is addressed in Austrian AD No. 90, undated.

(g) This amendment becomes effective on June 14, 1998.

Issued in Kansas City, Missouri, on April 17, 1998.

James A. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11008 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–104–AD; Amendment 39–10494; AD 98–09–13]

RIN 2120–AA64

Airworthiness Directives; Alexander Schleicher Segelflugzeugbau Model ASK 21 Sailplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Alexander Schleicher Segelflugzeugbau (Alexander Schleicher) Model ASK 21 sailplanes. This AD requires inspecting the S-shaped rudder pedal tube for displacement, and correcting any displacement of the plastic tube. 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 rudder control jamming, which

could result in loss of directional control of the sailplane.

DATES: Effective June 14, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 14, 1998.

ADDRESSES: Service information that applies to this AD may be obtained from Alexander Schleicher, Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. 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–104–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. J. Mike Kiesov, Project Officer, Sailplanes/Gliders, 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 certain Alexander Schleicher Model ASK 21 sailplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on February 12, 1998 (63 FR 7082) . The NPRM proposed to require inspecting the plastic S-shaped rudder pedal tube for displacement. If the rudder tube is displaced, the proposed action would require correcting the placement of the plastic S-shaped rudder pedal tube. Accomplishment of the proposed inspection would be in accordance with the Action sections 1.1, 1.2, and 1.3 of Alexander Schleicher Technical Note No. 20, dated October 16, 1987.

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.

Compliance Time of This AD

This action, the German AD, and Alexander Schleicher Technical Note No. 20, dated October 16, 1987, differ on compliance time. The German AD and the technical note require that the inspection for displacement of the plastic tube be accomplished prior to further flight.

The FAA is requiring a calendar compliance time instead of hours time-in-service (TIS) because the average monthly usage of the affected sailplanes varies throughout the fleet. For example, one owner may operate the sailplane 25 hours TIS in one week, while another operator may operate the sailplane 25 hours TIS in one year. In order to ensure that all of the affected sailplanes have been inspected for displacement of the plastic S-shaped rudder tube and any displacement has been corrected within a reasonable amount of time, the FAA is requiring a compliance time of 6 calendar months.

Cost Impact

The FAA estimates that 30 sailplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per sailplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $5 (for glue) per sailplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $3,750, or $125 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:

98–09–13 Alexander Schleicher Segelflugzeugbau: Amendment 39–10494; Docket No. 97–CE–104–AD.

Applicability: Model ASK 21 sailplanes, serial numbers 21001 through 21345, 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 (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 within the next 6 calendar months after the effective date of this AD, unless already accomplished.

To prevent rudder control jamming, which could result in loss of directional control of the sailplane, accomplish the following:

(a) Inspect the plastic S-shaped rudder pedal tube for displacement in accordance with the Actions sections 1.1, 1.2, and 1.3 of

Alexander Schleicher Technical Note No. 20, dated October 16, 1987.

(b) If there is any displacement of the plastic S-shaped rudder pedal tube, prior to further flight, correct the placement in accordance with the Actions sections 1.1, 1.2, and 1.3 of Alexander Schleicher Technical Note No. 20, dated October 16, 1987.

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

(d) 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, Aircraft Certification Service, 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.

(e) Questions or technical information related to Alexander Schleicher Technical Note No. 20, dated October 16, 1987, should be directed to Alexander Schleicher, Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, Federal Republic of Germany; telephone: 49.6658.890 or 49.6658.8920; facsimile: 49.6658.8923 or 49.6658.8940. 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.

(f) The inspection and correction required by this AD shall be done in accordance with Alexander Schleicher Technical Note No. 20, dated October 16, 1987. 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 Alexander Schleicher, Segelflugzeugbau, 6416 Poppenhausen, Wasserkuppe, 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 No. 88–2 Schleicher, dated January 18, 1988.

(g) This amendment becomes effective on June 14, 1998.

Issued in Kansas City, Missouri, on April 17, 1998.

James A. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11006 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–68–AD; Amendment 39–10493; AD 98–09–12]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Model 1900D airplanes (formerly known as Beech Aircraft Corporation Model 1900D airplanes). This AD requires inspecting and repairing the radio switching panel relay printed circuit board (PCB) and the nose avionics wire harnesses, and replacing the existing A017 component PCB with a new A017 component PCB that has internal overcurrent protection fuses. Several reported incidents of lost use of the pilot/co-pilot intercom system, VHF communication system, and public address system while in flight prompted this action. The actions specified by this AD are intended to prevent the loss of the pilot and co-pilot intercom, VHF communications, and passenger address system, which could result in loss of all communication during critical phases of flight.

DATES: Effective June 12, 1998.

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

ADDRESSES: Service information that applies to this AD may be obtained from Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043. 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–68–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. Harvey Nero, Aerospace Engineer, FAA, Wichita Aircraft Certification Office, Room 100, 1801 Airport Rd., Wichita, Kansas 67209; telephone: (316) 946–4137; facsimile: (316) 946–4407.

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 certain Raytheon Model 1900D airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on January 22, 1998 (63 FR 3278). The NPRM proposed to require inspecting and repairing the radio switching panel relay printed circuit board (PCB) and the nose avionics wire harnesses, and replacing the existing A017 component PCB with a new A017 component PCB that has internal overcurrent protection fuses. Accomplishment of the proposed action as specified in the NPRM would be in accordance with Raytheon Service Bulletin No. 2643, dated August, 1996.

The NPRM was the result of several reported incidents of lost pilot/co-pilot intercom ability, VHF communication ability, and public address system ability while in flight.

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

The commenter agrees with the proposed action, but states the differences in frequency of flying time of the affected airplanes needs to be taken into account when computing the compliance time. Some of the airplanes may fly as much as 60 hours per week, while others may only fly 3 hours per week. A compliance time of 1,000 hours after the effective date of the AD could, in some cases, not require the operator to comply with the AD for over 2 years. The commenter suggests that a calendar compliance be added to the compliance time to assure that all operators have accomplished the proposed action within a reasonable amount of time.

The FAA partially concurs. Since the proposed action is the result of moisture and corrosion, the electrical parts affected could corrode regardless of whether the airplane is in service. The final rule will reflect a change in the compliance time to assure that the affected airplanes that have a low number of hours in service per year will be in compliance within a reasonable amount of time. Based on this comment, the compliance time will change from "within the next 1,000 hours time-in-service (TIS) after the effective date" to "within the next 1,000 hours TIS or within the next 180 days after the effective date of this AD, whichever occurs first."

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 a change to the compliance time and minor editorial corrections. The FAA has determined that the change in compliance time and 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 160 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 4 workhours per airplane to accomplish this action, and that the average labor rate is approximately $60 an hour. Parts cost approximately $370 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $97,600 or $610 per airplane.

Raytheon has informed the FAA that it has shipped approximately 127 A017 component PCB's to the owners/operators of the affected airplanes. With this information in mind, the FAA will presume that 127 of the airplanes already have replacement components installed; thereby reducing the total cost impact of this AD on U.S. operators by $77,470, from $97,600 to $20,130.

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:

98–09–12 Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Amendment 39–10493; Docket No. 97–CE–68–AD.

Applicability: Model 1900D airplanes, serial numbers UE–1 through UE–160, 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 (e) 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 within the next 1,000 hours time-in-service (TIS) or within the next 180 days after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent the loss of the pilot and co-pilot intercom, VHF communications, and passenger address system, which could result in loss of all communication during critical phases of flight, accomplish the following:

(a) Inspect the electrical connectors, the radio switching panel, and its relay printed circuit boards (PCB's) for moisture and corrosion in accordance with the Accomplishment Instructions in Raytheon Service Bulletin (SB) No. 2643, dated August, 1996.

(1) If moisture is found, prior to further flight, clean and dry the component in accordance with the Accomplishment Instructions in Raytheon SB No. 2643, dated August, 1996.

(2) If corrosion is found, prior to further flight, either clean or replace the component, as defined in and in accordance with the Accomplishment Instructions in Raytheon SB No. 2643, dated August, 1996.

(3) If moisture or corrosion is found, prior to further flight, locate and eliminate the source (i.e., crack, hole, leak) in accordance with the Accomplishment Instructions in Raytheon SB No. 2643, dated August, 1996.

(b) Inspect the nose avionics wire harnesses for proper installation, and if any wire harness is not installed properly, prior to further flight, secure it with cable ties in accordance with the Accomplishment Instructions in Raytheon SB No. 2643, dated August, 1996.

(c) Remove the A017 component PCB, part number (P/N) 101–342536–1, and replace the PCB with a new A017 component PCB (P/N 101–342536–5 or an FAA-approved equivalent part number) in accordance with the Accomplishment Instructions in Raytheon SB No. 2643, dated August, 1996.

(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) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), Room 100, 1801 Airport Rd., Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Wichita ACO.

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

(f) The inspections, modifications, and replacements required by this AD shall be done in accordance with Raytheon Aircraft Mandatory Service Bulletin 1900D No. 2643, dated August, 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 Raytheon Aircraft Company, P. O. Box 85, Wichita, Kansas 67201–0085. 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.

(g) This amendment becomes effective on June 12, 1998.

Issued in Kansas City, Missouri, on April 20, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11014 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–48–AD; Amendment 39–10506; AD 98–09–25]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–31, PA–31–300, PA–31–325, and PA–31–350 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain The New Piper Aircraft, Inc. (Piper) Models PA–31, PA–31–300, PA–31–325, and PA–31–350 airplanes. This AD requires replacing the lower spar splice plate and reworking the lower spar caps. This AD results from numerous reports of fretting and cracking of the lower spar splice plates on Piper PA–31 series airplanes in Australia, and a report of one incident in the United States. The actions specified by this AD are intended to prevent failure of the lower spar splice plate caused by fretting and cracking, which could result in loss of control of the airplane.

DATES: Effective June 15, 1998.

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

ADDRESSES: Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. 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–48–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. William O. Herderich, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6084; facsimile: (770) 703–6097.

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 certain Piper Models PA–31, PA–31–300, PA–31–325, and PA–31–350 airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on August 22, 1997 (62 FR 44597). The NPRM proposed to require replacing the lower spar splice plate and reworking the lower spar caps. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with Piper Main Spar Splice Plate Replacement (Lower) Kit No. 766–641, Drawing 88255, Revision A, dated May 12, 1997; or Piper Main Spar Splice Plate Replacement (Lower) Kit No. 766–640, Drawing 88254, Revision A, dated May 12, 1997.

The NPRM was the result of numerous reports of fretting and cracking of the lower spar splice plates on Piper PA–31 series airplanes in Australia, and a report of one incident in the United States.

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 has received data from the Australian Civil Aviation Safety Authority (CASA), which was based on the analysis of 34 airplanes. This data shows the lower spar splice plate replacement threshold as the following:

—6,000 hours time-in-service (TIS) for Models PA–31, PA–31–300, and PA–31–325 airplanes; and

—13,000 hours TIS for Model PA–31–350 airplanes

The lower spar splice plate replacement threshold was presented as 2,500 hours TIS in the NPRM. The FAA conducted statistical analysis on this data received from the Australian CASA. This analysis shows that the thresholds presented by the Australian CASA are reliable and accurate.

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 the change in the compliance time (from 2,500 hours TIS to 6,000 hours TIS or 13,000 hours TIS, as applicable) and 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 1,700 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 8 workhours per airplane to accomplish this replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $210 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $1,173,000, or $690 per airplane.

Piper has informed the FAA that, as of August 22, 1997 (the publication date of the NPRM), parts have been distributed to equip 1 affected airplane. Presuming that this set of parts is installed on an affected airplane, the cost impact of this AD will be reduced by $690, from $1,173,000 to $1,172,310.

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:

98–09–25 The New Piper Aircraft, Inc.: Amendment 39–10506; Docket No. 97–CE–48–AD.

Applicability: The following airplane model and serial numbers, certificated in any category:

Models	Serial numbers
PA–31, PA–31–300, and PA–31–325.	31–2 through 31–8312019.
PA–31–350	31–5001 through 31–8553002.

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 follows, unless already accomplished:

1. For the affected Models PA–31, PA–31–300, and PA–31–325 airplanes: Upon accumulating 6,000 hours on the lower spar splice plate or within the next 100 hours time-in-service (TIS) after the effective date of this AD, whichever occurs later; and

2. For the affected Model PA–31–350 airplanes: Upon accumulating 13,000 hours TIS on the lower spar splice plate or within the next 100 hours TIS after the effective date of this AD, whichever occurs later.

To prevent failure of the lower spar splice plate caused by fretting and cracking, which could result in loss of control of the airplane, accomplish the following:

(a) Replace the lower spar splice plate and rework the lower spar caps in accordance with the instructions included in the following kits, as applicable, and as referenced in Piper Service Bulletin No. 1003, dated June 16, 1997:

(1) Main Spar Splice Plate Replacement (Lower) Kit No. 766–640, Drawing 88254, Revision A, dated May 12, 1997, which applies to Models PA–31, PA–31–300, and Piper PA–31–325 airplanes; and

(2) Main Spar Splice Plate Replacement (Lower) Kit No. 766–641, Drawing 88255, Revision A, dated May 12, 1997, which applies to Model PA–31–350 airplanes.

(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 airplane 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, Atlanta Aircraft Certification Office (ACO), 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA 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) The replacements required by this AD shall be done in accordance with the instructions to Piper Main Spar Splice Plate Replacement (Lower) Kit No. 766–641, Drawing 88255, Revision A, dated May 12, 1997; or Piper Main Spar Splice Plate Replacement (Lower) Kit No. 766–640, Drawing 88254, Revision A, dated May 12, 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 The New Piper Aircraft, Inc., 2926 Piper Drive, Vero Beach, Florida 32960. 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.

(e) This amendment becomes effective on June 15, 1998.

Issued in Kansas City, Missouri, on April 21, 1998.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–11161 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–2]

Amendment to Class D and Class E Airspace; Cape Girardeau, MO

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of direct final rule which revises Class D and Class E airspace at Cape Girardeau, MO.

DATES: The direct final rule published at 63 FR 8095 is effective on 0901 UTC, June 18, 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 February 18, 1998 (63 FR 8095). 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 June 18, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Issued in Kansas City, MO on March 31, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–11129 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29199; Amdt. No. 1865]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedure (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on April 17, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective Upon Publication

FDC date	State	City	Airport	FDC number	SIAP
04/02/98 ...	MO	Sikeston	Sikeston Memorial Muni	FDC 8/2065	VOR/DME OR GPS RWY 2, AMDT 1...
04/02/98 ...	MO	Sikeston	Sikeston Memorial Muni	FDC 8/2066	VOR RWY 20, AMDT 3A...
04/02/98 ...	MO	Sikeston	Sikeston Memorial Muni	FDC 8/2067	NDB RWY 20, AMDT 8...
04/02/98 ...	MO	Sikeston	Sikeston Memorial Muni	FDC 8/2068	GPS RWY 20, ORIG...
04/03/98 ...	FL	Fort Myers	Page Field	FDC 8/2083	ILS RWY 5, AMDT 6C...
04/07/98 ...	AR	Searcy	Searcy Muni	FDC 8/2131	GPS RWY 19, AMDT 1...
04/08/98 ...	AL	Selma	Craig Field	FDC 8/2167	ILS RWY 33, ORIG–D...
04/08/98 ...	NY	Rochester	Greater Rochester Intl	FDC 8/2158	ILS RWY 4 (CAT I AND II) AMDT 16A...
04/09/98 ...	NY	Albany	Albany County	FDC 8/2189	ILS RWY 1 AMDT 8A...
04/10/98 ...	FL	Pompano Beach	Pompano Beach Airpark	FDC 8/2204	LOC RWY 14 ORIG–A...
04/15/98 ...	DC	Washington	Washington Dulles Intl	FDC 8/2240	ILS RWY 12 AMDT 6A...
04/15/98 ...	MD	Hagerstown	Washington County Regional	FDC 8/2244	VOR OR GPS RWY 9 AMDT 6...
04/15/98 ...	ME	Sanford	Sanford Regional	FDC 8/2270	VOR RWY 25 AMDT 13A...
04/15/98 ...	NC	Monroe	Monroe	FDC 8/2248	ILS RWY 5, ORIG–A...
04/15/98 ...	NJ	Caldwell	Essex County	FDC 8/2243	LOC RWY 22 AMDT 1...
04/16/98 ...	AR	Harrison	Boone County	FDC 8/2259	NDB RWY 18, AMDT 5B...
04/16/98 ...	IA	Burlington	Burlington Regional	FDC 8/2269	ILS RWY 36, AMDT 9...

[FR Doc. 98–11235 Filed 4–27–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29198; Amdt. No. 1864]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;.
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP

amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on April 17, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

...Effective May 21, 1998

Jacksonville, FL, LOC BC RWY 31, Amdt 8, CANCELLED
Atlanta, GA, Fulton County Airport-Brown Field, VOR–A, Orig
Atlanta, GA, Fulton County Airport-Brown Field, VOR/DME or GPS RWY 26, Orig, CANCELLED
Cartersville, GA, Cartersville, LOC RWY 19, Amdt 2
Greensboro, GA, Greene County Regional, VOR/DME–B, Orig
Thedford, NE, Thomas County, VOR OR GPS RWY 8, Amdt 4 CANCELLED

...Effective June 18, 1998

Mena, AR, Mena Intermountain Municipal, GPS RWY 17, Amdt 1
Delano, CA, Delano Muni, VOR RWY 32, Amdt 7
Delano, CA, Delano Muni, GPS RWY 32, Orig
Porterville, CA, Porterville Muni, GPS RWY 12, Orig
Porterville, CA, Porterville Muni, GPS RWY 30, Orig
Tracy, CA, Tracy Muni, GPS RWY 25, Orig
Tracy, CA, Tracy Muni, GPS RWY 29
Mapleton, IA, Mapleton Muni, GPS RWY 2, Orig
Mapleton, IA, Mapleton Muni, GPS RWY 20, Orig
Frankfort, KY, Capital City, GPS RWY 24, Orig
Frenchville, ME, Northern Aroostook Regional, GPS RWY 32, Orig
Traverse City, MI, Cherry Capital, GPS RWY 36 Orig
Concord, NC, Concord Regional, VOR/DME OR GPS RWY 20, Amdt 1, CANCELLED
Concord, NC, Concord Regional, GPS RWY 20, Orig
Hickory, NC, Hickory Regional, VOR RWY 24, Amdt 23, CANCELLED
Hickory, NC, Hickory Regional, VOR/DME RWY 24, Orig
Hickory, NC, Hickory Regional, NDB RWY 24, Amdt 5
Hickory, NC, Hickory Regional, ILS RWY 24, Amdt 7
Hickory, NC, Hickory Regional, GPS RWY 24, Orig
North Wilkesboro, NC, Wiles County, NDB RWY 1, Amdt 1
Cooperstown, ND, Cooperstown Muni, GPS RWY 13, Orig
Cooperstown, ND, Cooperstown Muni, GPS RWY 31, Orig
Ainsworth, NE, Ainsworth Muni, GPS RWY 35, Orig
Aurora, NE, Aurora Municipal, VOR OR GPS–A, Amdt 6
Aurora, NE, Aurora Municipal, NDB OR GPS RWY 16, Amdt 3
Aurora, NE, Aurora Municipal, GPS RWY 34, Orig
Nashua, NH, Boire Field, VOR/DME RNAV RWY 32, Amdt 6, CANCELLED
Nashua, NH, Boire Field, GPS RWY 32, Orig
Lubbock, TX, Lubbock Intl, LOC BC RWY 35L, Amdt 18
Lubbock, TX, Lubbock Intl, GPS RWY 8, Orig
Lubbock, TX, Lubbock Intl, GPS RWY 17R, Orig
Lubbock, TX, Lubbock Intl, GPS RWY 26, Orig
Lubbock, TX, Lubbock Intl, GPS RWY 35L, Orig
Mc Kinney, TX, Mc Kinney Muni, GPS RWY 17, Orig
Mc Kinney, TX, Mc Kinney Muni, GPS RWY 35, Orig
Grundy, VA, Grundy Muni, GPS RWY 22, Orig
Rice Lake, WI, Rice Lake Regional-Carl's Field, NDB RWY 19, Orig-A, CANCELLED
Sparta, WI, Sparta/Fort Mc Coy, NDB RWY 29, Amdt 2
Sparta, WI, Sparta/Fort Mc Coy, GPS RWY 11, Amdt 1
Sparta, WI, Sparta/Fort Mc Coy, GPS RWY 29, Amdt 1

[FR Doc. 98–11236 Filed 4–27–98; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29164; Amdt. No. 1860]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register

on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include "or GPS or FMS" in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove "or GPS or FMS" from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as "RNAV" will be redesignated as "VOR/DME RNAV" without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 20, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

Effective April 23, 1998

Kotzebue, AK, Ralph Wien Memorial, VOR/DME or GPS RWY 8, Amdt 2 CANCELLED
Kotzebue, AK, Ralph Wien Memorial, VOR/DME RWY 8, Amdt 2
Kotzebue, AK, Ralph Wien Memorial, VOR/DME 2 or GPS RWY 26, Orig CANCELLED
Kotzebue, AK, Ralph Wien Memorial, VOR/DME 2 RWY 26, Orig
Dublin, GA, W.H. "Bud" Barron, NDB or GPS RWY 2, Amdt 2 CANCELLED
Dublin, GA, W.H. "Bud" Barron, NDB RWY 2, Amdt 2
Morris, MN, Morris Muni, VOR or GPS RWY 32, Amdt 4B CANCELLED
Morris, MN, Morris Muni, VOR RWY 32, Amdt 4B
Minden, NE, Pioneer Village Field, VOR or GPS RWY 34, Amdt 1B CANCELLED
Minden, NE, Pioneer Village Field, VOR RWY 34, Amdt 1B
Hobbs, NM, Lea County (Hobbs), VOR/DME or TACAN or GPS RWY 21, Amdt 8 CANCELLED
Hobbs, NM, Lea County (Hobbs), VOR/DME or TACAN RWY 21, Amdt 8

[FR Doc. 98–11237 Filed 4–27–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29163; Amdt. No. 1859]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 20, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . EFFECTIVE UPON PUBLICATION

FDC date	State	City	Airport	FDC number	SIAP
03/05/98	AR	Little Rock	Adams Field	FDC 8/1478	VOR/DME RNAV or GPS Rwy 22R, Amdt 10...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1498	ILS Rwy 12R Amdt 4...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1500	ILS Rwy 30L, Amdt 20...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1502	LOC/DME Rwy 30L, Amdt 10...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1504	VOR/DME RNAV or GPS Rwy 30L, Orig...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1506	VOR/DME Rwy 30L, Orig...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1508	VOR or GPS Rwy 12R, Amdt 2...
03/05/98	CA	San Jose	San Jose Intl	FDC 8/1510	NDB/DME Rwy 30L, Amdt 4...
03/05/98	NC	Greensboro	Greensboro/Piedmont Triad Intl	FDC 8/1481	VOR/DME or GPS Rwy 23, Amdt 9A...
03/06/98	TN	Murfreesboro	Murfreesboro Muni	FDC 8/1544	NDB Rwy 18, Orig...
03/06/98	TX	Caldwell	Caldwell Muni	FDC 8/1533	VOR/DME or GPS-A, Amdt 2A...
03/06/98	WI	Beloit	Beloit	FDC 8/1525	VOR or GPS-A Amdt 5...
03/06/98	WI	Delavan	Lake Lawn	FDC 8/1527	NDB or GPS Rwy 18 Amdt 2...
03/06/98	WI	Janesville	Rock County	FDC 8/1520	VOR/DME Rwy 22, Orig...
03/06/98	WI	Madison	Blackhawk Airfield	FDC 8/1522	VOR or GPS-A, Orig-A...
03/06/98	WI	Madison	Dane County Regional-Truax Field	FDC 8/1526	VOR or TACAN or GPS Rwy 18, Amdt 20A...
03/06/98	WI	Madison	Dane County Regional-Truax Field	FDC 8/1528	VOR or TACAN or GPS Rwy 13, Amdt 23A...
03/06/98	WI	Madison	Dane County Regional-Truax Field	FDC 8/1529	VOR or TACAN or GPS Rwy 31, Amdt 24A...
03/06/98	WI	Madison	Dane County Regional-Truax Field	FDC 8/1530	ILS Rwy 36, Amdt 29A...
03/06/98	WI	Madison	Dane County Regional-Truax Field	FDC 8/1531	ILS Rwy 18, Amdt 7A...
03/06/98	WI	Madison	Dane County Regional-Truax Field	FDC 8/1532	NDB or GPS Rwy 36, Amdt 28A...
03/06/98	WI	Madison	Morey	FDC 8/1518	VOR/DME RNAV or GPS Rwy 12 Amdt 3...
03/06/98	WI	Madison	Morey	FDC 8/1519	VOR or GPS-A Amdt 6A...
03/06/98	WI	Madison	Morey	FDC 8/1521	VOR or GPS-B Amdt 5A...
03/09/98	SC	Charleston	Charleston AFB/Intl	FDC 8/1577	ILS Rwy 33, Amdt 4...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1610	NDB Rwy 26, Amdt 1C...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1613	VOR/DME or GPS Rwy 32R, Amdt 13A...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1614	ILS Rwy 27 (And Cat II), Amdt 1C...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1616	VOR/DME Rwy 14L, Amdt 15A...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1617	ILS Rwy 26 (And Cat II, Cat III), Amdt 15B...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1618	ILS Rwy 8, Amdt 18E...
03/10/98	TX	Houston	George Bush Intercontinental Arpt	FDC 8/1619	ILS Rwy 9, Amdt 4B...
03/12/98	MO	Columbia	Columbia Regional	FDC 8/1642	NDB or GPS Rwy 2, Amdt 8A...
03/13/98	IA	Cedar Rapids	The Eastern Iowa	FDC 8/1683	GPS Rwy 31, Orig...
03/13/98	TN	Somerville	Fayette County	FDC 8/1692	NDB or GPS Rwy 18, Orig-A...
03/16/98	FL	Fernandina Beach	Fernandina Beach Muni	FDC 8/1733	Radar-1, Amdt 4...
03/16/98	NC	Manteo	Dare County Regional	FDC 8/1737	NDB or GPS Rwy 4, Amdt 4...
03/16/98	NC	Manteo	Dare County Regional	FDC 8/1739	VOR or GPS Rwy 16, Amdt 3...
03/16/98	NC	Manteo	Dare County Regional	FDC 8/1743	NDB Rwy 16, Amdt 4...
03/16/98	OK	Duncan	Halliburton Field	FDC 8/1721	VOR Rwy 35, Amdt 10...
03/16/98	OK	Duncan	Halliburton Field	FDC 8/1722	LOC Rwy 35, Amdt 4...
03/16/98	OK	Tulsa	Tulsa Intl	FDC 8/1745	NDB or GPS Rwy 36R, Amdt 19B...
03/16/98	TX	Galveston	Scholes Field	FDC 8/1736	ILS Rwy 13, Amdt 9...
03/16/98	TX	Houston	West Houston	FDC 8/1731	VOR or GPS-B, Amdt 2...
03/17/98	OK	Tulsa	Tulsa Intl	FDC 8/1764	Radar-1, Amdt 17...
03/17/98	PA	Reedsville	Mifflin County	FDC 8/1762	LOC Rwy 6, Amdt 7...

[FR Doc. 98–11238 Filed 4–27–98; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29162; Amdt. No. 1858]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing the SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment 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 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on March 20, 1998.

Tom E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective 23 April 1998*

Crosett, AR, Z M Jack Stell Field, VOR/DME RNAV RWY 23, Orig-A, CANCELLED
Chicago/Prospect Hgts/Wheeling, IL, Palwaukee Muni, ILS RWY 16, Orig, CANCELLED
Chicago/Prospect Hgts/Wheeling, IL, Palwaukee Muni, ILS RWY 16, Orig
Chicago/Prospect Hgts/Wheeling, IL, Palwaukee Muni, GPS RWY 16, Orig
Okmulgee, OK, Okmulgee Muni, ILS RWY 17, Amdt 3, CANCELLED
Okmulgee, OK, Okmulgee Muni, ILS RWY 17, Orig
Pittsburgh, PA, Pittsburgh Intl, ILS RWY 10C, Orig
Pittsburgh, PA, Pittsburgh Intl, ILS RWY 28C, Orig
Amarillo, TX, Amarillo Intl, GPS RWY 4, Orig
Amarillo, TX, Amarillo Intl, GPS RWY 22, Orig

** * * Effective 21 May 1998*

Fayetteville, AR, Drake Field, LDA/DME RWY 34, Amdt 2
Fayetteville, AR, Drake Field, MLS RWY 34, Amdt 2
Chicago, IL, Chicago Midway, MLS RWY 22L, Orig-A, CANCELLED
Springfield, IL, Capital, ILS RWY 31, Amdt 1
Springfield, IL, Capital, RADAR-1, Amdt 8
Cambridge, NE, Cambridge Muni, GPS RWY 32, Orig
Gallup, NM, Gallup Muni, GPS RWY 6, Orig
Cortland, NY, Cortland County-Chase Field, GPS RWY 24, Amdt 1
Youngstown, OH, Youngstown Elser Metro, GPS RWY 28, Orig
Grove, OK, Grove Muni, VOR OR GPS-A, Amdt 1, CANCELLED
Grove, OK, Grove Muni, VOR/DME-A, Orig

** * * Effective 18 June 1998*

Kotzebue, AK, Ralph Wien Memorial, GPS RWY 8, Orig
Kotzebue, AK, Ralph Wien Memorial, GPS RWY 26, Orig
Oxnard, CA, Oxnard, GPS RWY 7, Orig
Oxnard, CA, Oxnard, GPS RWY 25, Orig
Visalia, CA, Visalia Muni, GPS RWY 12, Orig
Visalia, CA, Visalia Muni, GPS RWY 30, Orig
Lake In The Hills, IL, Lake In The Hills, GPS RWY 8, Orig
Huntington, IN, Huntington Muni, GPS RWY 9, Amdt 1
Scott City, KS, Scott City Muni, NDB RWY 35, Amdt 1
Scott City, KS, Scott City Muni, GPS RWY 17, Orig
Scott City, KS, Scott City Muni, GPS RWY 35, Orig
Wichita, KS, Beech Factory, VOR OR GPS-B, Amdt 2
Wichita, KS, Beech Factory, RNAV OR GPS RWY 18, Orig, CANCELLED
Wichita, KS, Beech Factory, RNAV OR GPS RWY 36, Orig, CANCELLED
Wichita, KS, Beech Factory, VOR/DME RNAV RWY 18, Orig
Wichita, KS, Beech Factory, VOR/DME RNAV RWY 36, Orig
Wichita, KS, Beech Factory, GPS RWY 18, Orig
Wichita, KS, Beech Factory, GPS RWY 36, Orig
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), VOR OR GPS RWY 8 Amdt 11
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), VOR/DME RWY 26, Amdt 4
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), VOR/DME RNAV OR GPS RWY 17, Amdt 3
Minneapolis, MN, Anoka County-Blaine Airport (Janes Field), GPS RWY 35, Orig
Redwood Falls, MN, Redwood Falls Muni, VOR OR GPS-A, Amdt 4
Redwood Falls, MN, Redwood Falls Muni, VOR/DME RNAV RWY 30, Amdt 1
Redwood Falls, MN, Redwood Falls Muni, GPS RWY 30, Orig
Columbus-West Point-Starkville, MS, Golden Triangle Regional, LOC/DME BC RWY 36, Amdt 6A, CANCELLED
Meridian, MS, Key Field, RNAV OR GPS RWY 19, Amdt 3, CANCELLED
Meridian, MS, Key Field, GPS RWY 1, Orig
Meridian, MS, Key Field, GPS RWY 19, Orig
Millersburg, OH, Holmes County, GPS RWY 27, Orig
Millington, TN, Millington Muni, GPS RWY 22, Orig
Baraboo, WI, Baraboo Wisconsin Dells, GPS RWY 1, Orig

[FR Doc. 98-11239 Filed 4-27-98; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 101 and 122

[T.D. 98-35]

Customs Service Field Organization; Establishment of Sanford Port of Entry

AGENCY: Customs Service; Treasury.

ACTION: Final rule.

SUMMARY: This document confirms that May 1, 1998, is the effective date for the establishment of a Customs port of entry at Orlando-Sanford Airport in Sanford, Florida. Orlando-Sanford Airport's designation as a user fee airport will terminate on the same date.

EFFECTIVE DATE: May 1, 1998 is the effective date for amendment of §§ 101.3(b)(1) and 122.15(b), Customs Regulations, published in the Federal Register (62 FR 37131) on July 11, 1997.

FOR FURTHER INFORMATION CONTACT: Harry Denning, Office of Field Operations (202) 927-0196.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1997, Customs published a document in the Federal Register (62 FR 37131) T.D. 97-64 which amended § 101.3(b), Customs Regulations (19 CFR 101.3(b)), to establish a new port of entry at Orlando-Sanford Airport in Sanford, Florida, and amended § 122.15(b), Customs Regulations (19 CFR 122.15(b)) to remove the Sanford Regional Airport from the list of user fee airports. Customs set forth in that document the justification for redesignating the airport facility from its user fee status to that of a port of entry and designated November 10, 1997, as the effective date.

For reasons set forth in a document (T.D. 97-88) published in the Federal Register (62 FR 60164) on November 7, 1997, Customs delayed the effective date for establishment of the new port of entry and the termination of the airport's user fee status until May 1, 1998, and solicited comments regarding the delayed effective date. In that document, Customs stated that if comments submitted demonstrated sufficient grounds for not delaying the effective date until May 1, 1998, Customs would issue another document. The comment period expired on December 8, 1997.

Discussion of Comments

Six comments were received in response to the document delaying the effective date until May 1, 1998, four opposing the delay and two in favor of extending the delay until July 1, 1998.

The four comments opposing the delay emanate from the State of Maine and were submitted by members of the Maine congressional delegation and by attorneys on behalf of Bangor International Airport. These comments essentially contend that Bangor International Airport is being harmed by the delay because flights would clear at Bangor but for the market distortion caused by Sanford being permitted to operate longer as a user fee airport not subject to the passenger fee that is assessed at ports of entry.

The two comments urging further delay beyond May 1, 1998, in the establishment of a port of entry at Orlando-Sanford Airport come from that airport and from attorneys on its behalf. The comments argue that the delay does not impose an unwarranted competitive burden on port of entry airports such as Bangor International Airport.

They further contend that until the construction of the cargo building and security system at Orlando-Sanford Airport, which has been delayed, the airport does not fully meet the criteria for a Customs port of entry.

Determination

Customs decision to suspend the November 10, 1997, effective date for conversion of Orlando-Sanford Airport to a port of entry was based in large part on claims that imposition of port of entry status on the date set by Customs would subject the Airport Operator to a significant additional cost that it could not, under agreements effective through May 1, 1998 with carriers landing at Orlando-Sanford Airport, pass on to carriers.

After reviewing all the comments, which basically represent two distinct competitive interests, Customs believes that delaying the designation of Orlando-Sanford Airport as a port of entry was appropriate under the circumstances. However, Customs believes Orlando-Sanford Airport was provided with sufficient opportunity to resolve the concerns it proffered to obtain that delayed effective date. Accordingly, Customs believes that the designation should not be further delayed.

Further, Customs believes the comments received did not demonstrate sufficient grounds for making the Orlando-Sanford Airport a port of entry before the May 1, 1998 announced effective date.

Accordingly, Customs is confirming that the effective date for the establishment of the Orlando-Sanford port of entry and the date for the termination of the airport's user fee status is May 1, 1998.

Amendment to the Regulations

For the reasons stated above, the effective date of the final rule document FR Doc. 97–18206, published in the **Federal Register** on July 11, 1997, and delayed until May 1, 1998, pursuant to interim rule document FR Doc. 97–29599, published in the **Federal Register** on November 7, 1997, is now finalized as May 1, 1998.

Regulatory Flexibility Act and Executive Order 12866

Because this document merely confirms a decision previously made, this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, and is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 603 *et seq.*). This amendment does not meet the criteria for a "significant regulatory action" as specified in Executive Order 12866.

Samuel H. Banks,

Acting Commissioner of Customs.

Approved: April 17, 1998.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 98–11190 Filed 4–27–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 05–98–028]

Special Local Regulations for Marine Events; Approaches to Annapolis Harbor, Spa Creek, and Severn River, Annapolis, MD

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

SUMMARY: This notice implements the special local regulations at 33 CFR 100.511 during the Warfare Capabilities Demonstration, a marine event to be held May 1, 1998, on Spa Creek and the Severn River at Annapolis, Maryland. These special local regulations are necessary to control vessel traffic in the vicinity of the U.S. Naval Academy due to the confined nature of the waterway and expected vessel congestion during the helicopter rappelling demonstration. The effect will be to restrict general navigation in the regulated area for the safety of spectators, event participants, and other vessels transiting the event area.

DATES: 33 CFR 100.511 is effective from 1 p.m. to 2 p.m. on May 1, 1998.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer R.L. Houck, Marine Events Coordinator, Commander, Coast Guard Activities Baltimore, 2401 Hawkins Point Road, Baltimore, MD 21226–1971, (410) 576–2674.

SUPPLEMENTARY INFORMATION: The U.S. Naval Academy Sailing Squadron will sponsor the Warfare Capabilities Demonstration on the Severn River, near the U.S. Naval Academy, Annapolis, Maryland. Waterborne activities will consist of Navy SEALS rappelling from a helicopter. In order to ensure the safety of participants and transiting vessels, 33 CFR 100.511 will be in effect for the duration of the event. Under provisions of 33 CFR 100.511, a vessel may not enter the regulated area unless it receives permission from the Coast Guard Patrol Commander. Spectator vessels may anchor outside the regulated area but may not block a navigable channel. Because these restrictions will be in effect for a limited period, they should not result in a significant disruption of maritime traffic.

Dated: April 15, 1998.

J.S. Carmichael,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–11226 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–98–026]

Drawbridge Operation Regulations; Wicomico River (North Prong)

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Commander, Fifth Coast Guard District has issued a temporary deviation from the regulations governing the operation of the Main Street drawbridge across the Wicomico River, mile 22.4, in Salisbury, Maryland. Beginning April 21, 1998, through May 19, 1998, this deviation requires three-hours advance notice for drawbridge openings from 9 a.m. through 3 p.m. on weekdays and from 7 p.m. on Fridays through 6 a.m. on Mondays. This deviation is necessary to allow the contractor to paint the bridge.

DATES: This deviation is effective from April 21, 1998 through May 19, 1998.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION: Textar Painting Corporation, a contractor for the Maryland Department of Transportation, requested the Coast Guard to approve a temporary deviation from the normal operation of the bridge in order to accommodate painting the structure. To paint the bridge, a barge must be used which will block the waterway. Three-hours advance notice will be required to move the barge out of the channel and open the bridge during the requested time periods.

This deviation will not significantly disrupt vessel traffic, since very little exists during this time of the year. The regulations at 33 CFR 117.579 require the draw to open on signal except from 7 a.m. to 9 a.m., from 12 noon to 1 p.m.,

and from 4 p.m. to 6 p.m. During these time periods the draw opens only for tugs with tows if at least three-hours advance notice is given, and the reason for passage through the bridge during a closure period is due to delay caused by inclement weather or other emergency or unforeseen circumstances.

From April 21, 1998, through May 19, 1998, this deviation requires three-hours advance notice for openings of the Wicomico River Main Street Bridge from 9 a.m. through 3 p.m. on weekdays and from 7 p.m. on Fridays through 6 a.m. on Mondays.

Dated: April 17, 1998.

J. Carmichael,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 98–11228 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–98–026]

RIN 2115–AA97

Safety Zone: Fleet Week 1998 Parade of Ships, Port of New York and New Jersey

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones for the Fleet Week 1998 Parade of Ships. A moving safety zone includes all waters 500 yards ahead and astern, and 200 yards on each side of the designated column of parade vessels as it transits New York Harbor's Upper Bay and the Hudson River, from the Verrazano Bridge to the George Washington Bridge. This action is necessary to prevent vessels from impeding the parade column and keep traffic to the western side of the Hudson River.

DATES: This rule is effective from 9 a.m. to 4 p.m. on Wednesday, May 20, 1998, unless terminated sooner by the Captain of the Port, New York.

ADDRESSES: You may mail comments to the Commander (wob) (CGD01–98–026), Coast Guard Activities New York, 212 Coast Guard Drive, Staten Island, New York 10305–5005; or deliver them to room 205 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except federal holidays. The Waterways Oversight Branch (wob) of Coast Guard Activities New York maintains the public docket for this rulemaking. Comments and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at the same location, dates, and times listed above.

FOR FURTHER INFORMATION CONTACT: Lieutenant (Junior Grade) A. Kenneally, Waterways Oversight Branch, Coast Guard Activities New York, at (718) 354–4195.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation. Good cause exists for not publishing an NPRM and for making this regulation effective less than 30 days after **Federal Register** publication. Due to the date that accurate information concerning any pre-parade events and times became available, as well as a change in the personnel handling the event particulars, there was insufficient time to draft and publish an NPRM. Any delay encountered in this rule's effective date would be contrary to public interest, since immediate action is needed to protect the visiting vessels from being hazarded by smaller, privately-owned vessels while the larger vessels are in formation.

Background and Purpose

In mid-February, the Intrepid Museum Foundation submitted an Application for Approval of Marine Event to sponsor a parade of U.S. Coast Guard, U. S. Navy, and foreign naval ships through the Port of New York and New Jersey. This regulation establishes a moving safety zone to include all waters 500 yards ahead and astern, and 200 yards on each side of the designated column of parade vessels as it transits the Port of New York and New Jersey from the Verrazano Narrows Bridge through the waters of the Hudson River to Riverbank State Park, between West 137th and West 144th Streets, Manhattan, New York. The zone will expand beyond the parade vessel column east to the Manhattan shoreline between Piers 84 and 88, Manhattan, New York, as the column passes by that area. This expansion will give the public an unobstructed view of the parade from the pierside reviewing stand. Then, as the vessels turn in the waters west of Riverbank State Park and proceed southbound in the Hudson River, the moving safety zone will expand to include all waters within a 200 yard radius of each vessel from its turning point until it is safely berthed. This regulation is in effect from 9:00 a.m. to 4:00 p.m. on May 20, 1998, unless extended or terminated sooner by the Coast Guard Captain of the Port, New York.

This regulation is needed to protect the maritime public from possible hazards to navigation associated with a parade of naval vessels transiting the waters of New York harbor in close proximity. These vessels have limited maneuverability and require a clear traffic lane to safely navigate.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has been exempted from review by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This finding is based on the following: due to the moving nature of the safety zone, no single location will be affected for a prolonged period of time; commercial and recreational vessels could transit on either side of the moving safety zone except along the Manhattan side between Piers 84 and 88 as the parade passes by that area; and alternate routes are available for commercial and recreational vessels that can safely navigate the Harlem and East Rivers, Kill Van Kull, Arthur Kill, and Buttermilk Channel. Similar safety zones have been established for several past Fleet Week parades of ships with minimal or no disruption to vessel traffic or other interests in the port. In addition, extensive, advance notifications will be made to the maritime community so mariners can adjust their plans accordingly.

Small Entities

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

For the reasons set forth in the Regulatory Evaluation section, the Coast Guard expects the impact of this proposal to be minimal. In addition,

similar safety zones have been established for several past Fleet Week parades of ships with minimal or no disruption to vessel traffic or other interests in the port. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this rule will have a significant economic impact on it, please submit a comment explaining why you think it qualifies, and in what way and to what degree this rule will adversely affect it.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under 2.B.2.e.(34)(g) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

Regulation

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

PART 165—[AMENDED]

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

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

2. A temporary section, 165.T01–026, is added to read as follows:

§ 165.T01–026 Safety Zone: Fleet Week 1998 Parade of Ships, Port of New York and New Jersey.

(a) *Location.* The following are safety zones:

(1) A moving safety zone including all waters 500 yards ahead and astern, and 200 yards on each side of the designated column of parade vessels as it transits from the Verrazano Narrows Bridge through the waters of the Hudson River to Riverbank State Park, between West 137th and West 144th Streets, Manhattan, New York.

(2) A safety zone including all waters of the Hudson River between Piers 84 and 88, Manhattan, New York, from the parade column east to the Manhattan shoreline as the column passes by that area.

(3) A moving safety zone including all waters within a 200 yard radius of each parade vessels from its turning point near Riverbank State Park until the vessel is safely berthed.

(b) *Effective period.* This section is effective from 9 a.m. to 4 p.m. on May 20, 1998.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply to this safety zone.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: April 13, 1998.

L.M. Brooks,

Captain, U.S. Coast Guard, Captain of the Port, New York, Acting.

[FR Doc. 98–11227 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 05–98–008]

RIN 2115–AA97

Safety Zone; Atlanta Ocean, Vicinity of Cape Henlopen State Park, DE

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Atlantic Ocean near Cape Henlopen State Park, Delaware. The safety zone is necessary to protect spectators and other vessels from the potential hazards associated with the Super Loki Rocket Launch from Cape Henlopen State Park.

DATES: This rule is effective May 9 and May 10, 1998.

FOR FURTHER INFORMATION CONTACT: Chief Petty Officer Ward, Project Manager, Waterways and Waterfront Facilities Branch, at (215) 271–4888.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public's interest because immediate action is needed to protect vessel traffic from the potential hazards associated with the splashdown of the motor from a Super Loki Meteorological Rocket.

Drafting Information: The principal persons involved in drafting this document are S. L. Phillips, Project Manager, Operations Division, Auxiliary Section, Fifth Coast Guard District and LTJG P. Markland, Project Counsel, Maintenance and Logistics Command Atlantic, Legal Division.

Background and Purpose

The Delaware Aerospace Education Foundation is launching a Super Loki Meteorological Rocket from Cape Henlopen State Park for the purpose of collecting meteorological data. The rocket payload will splash down in the Atlantic Ocean approximately 22 nautical miles southeast of the launch point. The rocket motor is expected to splash down within 2 nautical miles of the launch point. This safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch of the Super Loki Meteorological Rocket and the subsequent splashdown of the rocket motor.

Discussion of the Regulation

This safety zone includes an 8 square mile section of the Atlantic Ocean adjacent to the launch site at Cape Henlopen State Park in Delaware. Specifically, the safety zone includes the waters of the Atlantic Ocean that are within the area bounded by a line drawn north from the tip of Cape Henlopen located at latitude 38°48.2′ North, longitude 75°05.5′ West, to a point located at latitude 38°49.4′ North, longitude 75°05.5′ West; then east to a point located at latitude 38°49.4′ North, longitude 75°01.0′ West; then south to a

point located at latitude 38°43.0′ North, longitude 75°01.0′ West; then west to a point on the shoreline located at latitude 38°43.0′ North, longitude 75°04.5′ West.

This safety zone is necessary to protect spectators and transiting vessels from the potential hazards associated with the launch of the Super Loki Meteorological Rocket and subsequent splashdown of the rocket motor. The safety zone is effective on May 9 and May 10, 1998 and will be enforced on those days until the Coast Guard is satisfied that the spent rocket no longer poses a hazard to mariners. The Coast Guard will announce via Broadcast Notice to Mariners the anticipated time of the launch. Vessels are prohibited from transiting through the safety zone without first obtaining permission from the Captain of the Port, Philadelphia.

Regulatory Evaluation

This temporary rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this temporary rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. Because the regulated area is limited to 8 square miles and will only be enforced while the rocket's spent motor poses a hazard, the impact on routine navigation is expected to be minimal.

Collection of Information

This temporary rule contains no Collection of Information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this temporary rule and concluded that, under section 2.b.2.b and item (34)(g) of Figure 2–1 of Commandant Instruction M16475.1C dated 14 November 1997, this rule is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 165

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

For the reasons set out in the preamble, 33 CFR part 165 is amended as follows:

PART 165—[AMENDED]

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

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

2. Section 165.T05.008 is added to read as follows:

§ 165.T05.008 Safety Zone: Atlantic Ocean, Vicinity of Cape Henlopen State Park, Delaware.

(a) *Location.* The following area is a safety zone: All the waters of the Atlantic Ocean that are within the area bounded by a line drawn north from the tip of Cape Henlopen located at latitude 38°48.2′ North, longitude 75°05.5′ West, to a point located at latitude 38°49.4′ North, longitude 75°05.5′ West; thence east to a point located at latitude 38°49.4′ North, longitude 75°01.0′ West; thence south to a point located at latitude 38°43.0′ North, longitude 75°01.0′ West; thence west to a point on the shoreline located at latitude 38°43.0′ North, longitude 75°04.5′ West. All coordinates reference Datum: NAD 1983.

(b) *Effective Dates.* This section is effective May 9 and May 10, 1998.

(c) *General Information.*

(1) The Captain of the Port and the Duty Officer at the Marine Safety Office, Philadelphia, Pennsylvania, can be contacted at telephone number (215) 271–4940 and on VHF channels 13 and 16.

(2) The Captain of the Port may authorize and designate any Coast Guard commissioned, warrant, or petty officer to act on his behalf in enforcing this safety zone.

(d) *Regulation.* The general regulations governing safety zones contained in § 165.23 apply. Vessels may not transit the safety zone without first obtaining permission from the Captain of the Port.

Dated: April 3, 1998.

John E. Veentjer,

Captain, U.S. Coast Guard, Captain of the Port, Philadelphia, PA.

[FR Doc. 98–11225 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Los Angeles-Long Beach, 97–007]

RIN 2115–AA97

Safety Zone: Los Angeles Harbor; San Pedro Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is adopting as final with changes an interim rule that modified the locations of two safety zones and created an additional moving safety zone surrounding the Dredge FLORIDA while engaged in dredging operations associated with Stage II of the Pier 400 project, in Los Angeles Harbor and San Pedro Bay, CA.

DATES: This regulation is effective from 6 a.m. PDT on May 28, 1998 until 11:59 PST on December 31, 1999.

ADDRESSES: Documents as indicated in this preamble are available for inspection or copying at the U.S. Coast Guard Marine Safety Office Los Angeles-Long Beach, 165 N. Pico Avenue, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Lieutenant Keith Whiteman, Chief, Port Safety and Security Division, Marine Safety Office Los Angeles-Long Beach; (562) 980–4454.

SUPPLEMENTARY INFORMATION:

Regulatory History

On November 19, 1997, the Coast Guard published an interim rule with request for comments for this regulation in the **Federal Register** (62 FR 61630). The public was given until January 20, 1998, to comment on the regulation. No public comments were received with respect to the interim rule.

Background and Purpose

In the interim rule, the Coast Guard revised the safety zone boundaries codified in 33 CFR Part 165.1110 to better conform with the location of dredging and landfill activities associated with stage II of the Pier 400 project. The Coast Guard also added a third safety zone encompassing all navigable waters within 50 yards on all sides of the Dredge FLORIDA while it is engaged in dredging operations relating to the Pier 400 project, provided the FLORIDA is located within 3 nautical miles of the baseline from which the United States' territorial sea is measured. The new safety zones will remain in effect for the duration of the Pier 400 project.

Discussion of Regulation

The construction of Stage II of the Pier 400 project officially began on July 15, 1997. These revised safety zones are necessary for safeguarding recreational and commercial vessels from the dangers of the dredging and landfill activities in the project area and to prevent interference with vessels engaged in these operations. All persons and vessels are prohibited from entering into, transiting through or anchoring within the safety zone unless authorized by the Captain of the Port Los Angeles-Long Beach, CA.

Discussion of Changes

The safety zones published in the interim rule with request for comments (62 FR 61630) are being adopted with a correction to one of the latitudinal coordinates defining the boundary of the Pier 400 safety zone: the correct third latitudinal coordinate defining the boundary of the Pier 400 safety zone is 33°43′3.50″N, vice 33°43′48.50″N, which was incorrectly published in the interim rule. This change actually decreases the size of the safety zone and will not negatively impact port users.

Regulatory Assessment

The final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary. Due to the limited geographical scope of the exclusionary areas created by this rule, only minor delays to mariners are foreseen, as vessel traffic can be directed around the area of the safety zones.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this rule will have a significant economic impact on a substantial number of small entities. *Small entities* may include small businesses and not-for-profit organizations that are not dominant in their respective fields, and governmental jurisdictions with populations less than 50,000. For the same reasons set forth in the above Regulatory Evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule is not expected to have a significant economic impact on any substantial number of entities, regardless of their size.

Assistance for Small Entities

In accordance with § 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact Lieutenant Keith Whiteman, Marine Safety Office Los Angeles-Long Beach, Long Beach, CA, at (562) 980–4454.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that under paragraph 2.B.2.b.(34)(g) of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation. This regulation is not expected to individually or cumulatively have a significant effect on the human environment. A Categorical Exclusion Determination and an Environmental Analysis Checklist is available for inspection and copying in the docket to be maintained where indicated under **ADDRESSES.**

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in the aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule be selected.

No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

List of Subjects in 33 CFR Part 165

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

Regulation

Accordingly, the interim rule amending 33 CFR part 165 which was published at 62 FR 61630 on November 19, 1997, is adopted as a final rule with the following change:

PART 52—[AMENDED]

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

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

2. Section 165.1110 is revised to read as follows:

§ 165.1110 Safety Zone: Los Angeles Harbor; San Pedro Bay, CA.

(a) *Location.* The following areas are established as safety zones:

(1) *Pier 400:* Those waters of Los Angeles Harbor and San Pedro Bay in the vicinity of Pier 400 as defined by the lines connecting the following coordinates.

Latitude	*Longitude*
33–44′–29.06″N	118–14′–17.25″W
33–43′–48.06″N	118–13′–59.25″W
33–43′–03.50″N	118–14′–11.72″W
33–42′–45.17″N	118–15′–04.78″W
33–43′–00.00″N	118–15′–29.90″W
33–43′–21.94″N	118–15′–41.51″W
33–43′–45.04″N	118–15′–30.81″W
33–43′–58.55″N	118–14′–44.38″W
33–44′–03.70″N	118–14′–26.65″W

and thence to the point of origin. All coordinates use Datum: NAD 83.

(2) *Shallow Water Habitat Extension:* Those waters of Los Angeles Harbor and San Pedro Bay as defined by the lines connecting the following coordinates.

Latitude	*Longitude*
33–42′–32.10″N	118–15′–00.00″W
33–42′–49.84″N	118–15′–41.51″W
33–42′–47.06″N	118–15′–58.26″W
33–42′–24.99″N	118–15′–23–59″W

and thence to the point of origin. All coordinates use Datum: NAD 83.

(3) *Moving Safety Zone: Dredge FLORIDA.* All waters within 50 yards on all sides of the Dredge FLORIDA, when it is within three nautical miles of the base line from which the United States territorial sea is measured and engaged in dredging operations associated with the Pier 400 project.

(b) *Dates.* This section is effective from 6 a.m. PDT on May 28, 1998 through 11:59 p.m. PST on December 31, 1999.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within any of these safety zones is prohibited unless authorized by the Captain of the Port Los Angeles-Long Beach, CA.

Dated: April 13, 1998.

G.F. Wright,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, California.

[FR Doc. 98–11224 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–15–M

PANAMA CANAL COMMISSION

RIN 3207–AA45

35 CFR Parts 133 and 135

Tolls for Use of Canal; Rules for Measurement of Vessels

AGENCY: Panama Canal Commission.

ACTION: Final rule.

SUMMARY: The Panama Canal Commission (Commission) is establishing new toll rates for certain small vessels using the waterway. These new tolls are based on the overall length of the vessels.

The Commission considers this increase necessary to recover a portion of the resources expended in the transit of small vessels and to provide a more efficient use of Canal capacity and resources. This toll increase complies with the statutory requirement which requires the Commission to produce revenues sufficient to cover all costs of maintenance and operation of the Panama Canal, including capital for plant replacement, expansion and improvements.

DATES: Effective June 1, 1998.

FOR FURTHER INFORMATION CONTACT: John A. Mills, Telephone: (202) 634–6441, Facsimile: (202) 634–6439, E-mail: pancanalwo@aol.com; or Department of Financial Management, Telephone: 011 (507) 272–3137, Facsimile: 011 (507) 272–3433, E-mail: fmf@pancanal.com.

SUPPLEMENTARY INFORMATION: These new tolls are based on the overall length of the vessel as follows: 1) up to 15.24 meters (50 feet), $500, (approximately 194 PC/UMS Net Tons at the current laden rate); 2) more than 15.24 meters (50 feet) up to 24.38 meters (80 feet), $750, (approximately 291 PC/UMS Net Tons at the current laden rate); 3) more than 24.38 meters (80 feet) up to 30.48 meters (100 feet), $1,000, (approximately 389 PC/UMS Net Tons at the current laden rate); and, 4) more than 30.48 meters (100 feet), $1,500, (approximately 583 PC/UMS Net Tons at the current laden rate).

In November, 1997, President Clinton signed into law an amendment to Public Law 96–70, section 1602 (22 U.S.C. 3792) which expanded the authority of the Commission to fix tolls for small vessels seeking to transit the Panama Canal. On January 5, 1998, a notice of proposed rulemaking was published in the **Federal Register** (63 FR 186). The Commission proposed to set a fixed, minimum toll for certain small vessels transiting the Panama Canal. The proposal required all vessels with PC/UMS Net Tonnages (laden or ballast) or displacement tonnage which would result in a toll of less than $1,500 to pay a fixed, minimum toll of $1,500. This change was deemed necessary because small vessels impose administrative costs and logistical problems which are not offset by the tolls they currently pay.

To ensure maximum notification and participation in the rulemaking process, the Commission issued several official announcements of its proposal through press releases, the local media, and also published the proposal at the Commission's web site on the Internet. A written analysis of the proposal explaining the proposed toll change was made available to interested parties. This document stated the proposed revision to toll charges would produce revenues sufficient to offset some of the administrative and operating costs actually incurred by the Commission in transiting this type of vessel.

The Commission solicited written comments from the public and received over 92 responses from several sectors of the local and international maritime community. In addition, a hearing was held in the Republic of Panama on February 13, 1998, at the Miraflores Visitors Pavilion Theater. A complete record of that proceeding, including the data and comments submitted by interested parties, is contained in the Panel Report to the Board of Directors (Board) of the Commission, and is available to the public. The views and arguments presented by interested parties, as well as other relevant information, were considered by the Board during its quarterly meeting on March 30, 1998. Based upon this review, and with the purpose of recovering some of the resources expended in the transit of small vessels, the Board approved the implementation of a modified, four-tier minimum toll based on the overall length of small vessels transiting the waterway. The implementation date of the proposal was also delayed to accommodate, to some extent, those Canal customers concerned with the impact a minimum toll would have on them.

The Panel Report more fully addresses the most significant comments submitted by interested parties, either in writing or in testimony at the public hearing. Any interested party, upon request and payment of duplicating costs, may obtain a copy of the report by contacting the Commission.

Section 1602(b) of the Panama Canal Act of 1979, as amended, (22 U.S.C. 3792(b)), requires Canal tolls be prescribed at rates calculated to produce revenues which cover as nearly as practicable all costs of maintaining and operating the Panama Canal, as well as produce capital for plant replacement, expansion and improvements. With the implementation of this rule, the Commission will better utilize the operational, administrative, and financial resources involved in the transit of small vessels.

The Commission is exempt from Executive Order 12866 and its provisions do not apply to this rule. Even if the Order were applicable, the rule would not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. The implementation of the rule will have no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Finally, the Secretary of the Panama Canal Commission certifies these changes meet the applicable standards set out in sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects

35 CFR Part 133

Navigation, Panama Canal, Vessels.

35 CFR Part 135

Measurement, Panama Canal, Vessels.

For the reasons stated in the preamble, the Panama Canal Commission is amending 35 CFR parts 133 and 135 as follows:

PART 133—TOLLS FOR USE OF CANAL

1. The authority citation for part 133 continues to read as follows:

Authority: 22 U.S.C. 3791–3792, 3794.

2. Section 133.1 is revised to read as follows:

§ 133.1 Rates of Toll.

The following rates of toll shall be paid by vessels using the Panama Canal:

(a) On merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, $2.57 per PC/UMS Net Ton—that is, the Net Tonnage determined in accordance with part 135 of this chapter.

(b) On vessels in ballast without passengers or cargo, $2.04 per PC/UMS Net Ton.

(c) On other floating craft including warships, other than transports, colliers, hospital ships and supply ships, $1.43 per ton of displacement.

(d) On small vessels which, under paragraphs (a) through (c), would be assessed a toll of less than $1,500, a minimum toll based upon their length overall in accordance with the following table:

Up to 15.24 meters (50 feet)	$500, i.e., approximately 194 PC/UMS Net Tons at the current laden rate.
More than 15.24 meters (50 feet) up to 24.38 meters (80 feet)	$750, i.e., approximately 291 PC/UMS Net Tons at the current laden rate.
More than 24.38 meters (80 feet) up to 30.48 meters (100 feet)	$1,000, i.e., approximately 389 PC/UMS Net Tons at the current laden rate.
More than 30.48 meters (100 feet)	$1,500, i.e., approximately 583 PC/UMS Net Tons at the current laden rate.

(e) Vessels with structural features which render the application of paragraph (d) of this section unreasonable or impractical, as determined by the Panama Canal Commission, shall have a PC/UMS Net Tonnage or displacement tonnage determined and shall have the toll assessed in accordance with paragraphs (a), (b) or (c) of this section, provided that tonnage determination results in tonnage greater than the equivalent of 583 PC/UMS Net Tons.

PART 135—RULES FOR MEASUREMENT OF VESSELS

1. The authority citation for part 135 continues to read as follows:

Authority: 22 U.S.C. 3791–3792, 3794.

2. Section 135.1 is amended by adding at the end thereof two new sentences to read as follows:

§ 135.1 Scope.

* * * Vessels measuring not more than 30.48 meters (100 feet) in length overall are not required to be measured. If the Panama Canal Commission determines the toll provided in § 133.1 (d) will apply, the vessel need not be assigned a PC/UMS Net Tonnage.

Dated: April 23, 1998.

John A. Mills,

Secretary.

[FR Doc. 98–11269 Filed 4–27–98; 8:45 am]

BILLING CODE 3640–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–5988–2]

New Mexico: Final Authorization and Incorporation by Reference of State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: New Mexico has revised its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has reviewed New Mexico's changes to its program and has made a decision, subject to public review and comment, that New Mexico's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Unless adverse written comments are received during the review and comment period provided for public participation in this process, EPA's decision to approve New Mexico's hazardous waste program revisions will take effect as provided below. New Mexico's program revisions are available for public review and comment.

The EPA uses part 272 of Title 40 Code of Federal Regulations (CFR) to provide notice of the authorization status of State programs, and to incorporate by reference EPA's approval of those provisions of the State statutes and regulations that EPA will enforce under RCRA sections 3008, 3013 and 7003. Thus, EPA intends to incorporate the New Mexico Authorized State Program by reference in 40 CFR part 272. The purpose of this action is to incorporate by reference EPA's approval of recent revisions to New Mexico's program.

DATES: Final authorization for New Mexico's program revisions shall be effective July 13, 1998 unless EPA publishes a prior FR action withdrawing this immediate final rule. All comments on New Mexico's program revisions must be received by the close of business May 28, 1998. The incorporation of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 13, 1998 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

ADDRESSES: Copies of New Mexico's program revisions and materials EPA used in evaluating the revisions are available for copying from 8:30 a.m. to 4 p.m. Monday through Friday, at the following addresses: New Mexico Environment Department, 1190 St Francis Drive, Santa Fe, New Mexico 87502, Phone number: (505) 827–1558; EPA Region 6 Library, 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–6444. Written comments referring to Docket Number NM98–1 should be sent to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–8533.

SUPPLEMENTARY INFORMATION:

I. Authorization of State Initiated Changes

A. Background

States with final authorization under section 3006(b) of the RCRA, 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Public Law 98–616, November 8, 1984, hereinafter HSWA) allow States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 124, 260 through 266, 268, 270, 273, and 279.

B. New Mexico

The State of New Mexico received final authorization to implement its base hazardous waste management program, on January 25, 1985, (50 FR 1515). New Mexico received authorization for revisions to its program on April 10, 1990 (55 FR 4604); July 25, 1990 (55 FR 28397); December 4, 1992 (57 FR 45717); August 23, 1994 (59 FR 29734); December 21, 1994 (59 FR 51122); July 10, 1995 (60 FR 20238); January 2, 1996 (60 FR 53708) as affirmed by EPA in the **Federal Register** notice published on January 26, 1996 (61 FR 2450)); and March 10, 1997 (61 FR 67474). The authorized New Mexico RCRA program was incorporated by reference to the CFR, effective December 13, 1993 (58 FR 52677); August 21, 1995 (60 FR 32113); and November 18, 1996 (61 FR 49265).

With respect to today's document, New Mexico has made conforming changes to make its regulations internally consistent relative to the revisions made for the above listed authorizations. New Mexico has also changed its regulations to make them more consistent with the Federal requirements. The EPA has reviewed these changes and has made an immediate final decision, in accordance with 40 CFR 271.21(b)(3), that New Mexico's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA grants final authorization for the additional program modifications to New Mexico's hazardous waste program. As explained in the Proposed Rule section of today's FR, the public may submit written comments on EPA's immediate final decision until June 12, 1998. Copies of New Mexico's program revisions are available for inspection and copying at the locations indicated in the **ADDRESSES** section of this document.

Approval of New Mexico's program revision shall become effective in 75 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received EPA will publish either: (1) a withdrawal of the immediate final decision or, (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

New Mexico is authorized to carry out, in lieu of the Federal program, the State-initiated changes to Title 20, Chapter 4, Part 1, New Mexico Annotated Code (20 NMAC 4.1), Sections 4.1.300 and 4.1.301 (analogous to 40 CFR Part 262) and 4.1.901.A.1 (analogous to 40 CFR 124.6(a)). The State regulations were effective November 1, 1995. In addition, EPA is authorizing changes to 4.1.1109 which was effective November 1, 1995. This provision does not have a direct analog in the Federal RCRA regulations however, none of these provisions are considered broader in scope than the Federal program. This is so because these provisions were either previously authorized as part of New Mexico's base authorization or have been added to make the State's regulations internally consistent with changes made for the other authorizations listed in the first paragraph of this section. The EPA has reviewed these provisions and has determined that they are consistent with and no less stringent than the Federal requirements. Additionally, this authorization does not affect the status of State permits and those permits issued by EPA because no new substantive requirements are a part of these revisions.

New Mexico is not authorized to operate the Federal program on Indian lands. This authority remains with EPA.

C. Decision

I conclude that New Mexico's program revisions meet all of the statutory and regulatory requirements established by RCRA. Accordingly, New Mexico is granted final authorization to operate its hazardous waste program as revised assuming no adverse comments are received, as discussed above.

New Mexico now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the HSWA. New Mexico also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

II. Incorporation by Reference

A. Background

Effective December 13, 1993, August 21, 1995 and November 18, 1996, EPA incorporated by reference New Mexico's then authorized hazardous waste program (58 FR 52677, 60 FR 32113 and 61 FR 49265). Effective March 10, 1997 (61 FR 67474), EPA granted authorization to New Mexico for additional program revisions. In this document, EPA is incorporating the currently authorized State hazardous waste program in New Mexico.

The EPA provides both notice of its approval of State programs in 40 CFR part 272 and incorporates by reference therein the State statutes and regulations that EPA will enforce under sections 3008, 3013 and 7003 of RCRA. This effort will provide clearer notice to the public of the scope of the authorized program in New Mexico. Such notice is particularly important in light of HSWA, (PL 98–616). Revisions to State hazardous waste programs are necessary when Federal statutory or regulatory authority is modified. Because HSWA extensively amended RCRA, State programs must be modified to reflect those amendments. By incorporating by reference the authorized New Mexico program and by amending the CFR whenever a new or different set of requirements is authorized in New Mexico, the status of Federally approved requirements of the New Mexico program will be readily discernible.

The Agency will only enforce those provisions of the New Mexico hazardous waste management program for which authorization approval has been granted by EPA. This document incorporates by reference provisions of State hazardous waste statutes and regulations and clarifies which of these provisions are included in the authorized and Federally enforceable program.

B. New Mexico Authorized Hazardous Waste Program

The EPA is incorporating by reference the New Mexico authorized hazardous waste program in subpart GG of 40 CFR part 272. The State statutes and regulations are incorporated by reference at § 272.1601(b)(1) and the Memorandum of Agreement, the Attorney General's Statement and the Program Description are referenced at § 272.1601(b)(5), (b)(6) and (b)(7), respectively.

The Agency retains the authority under sections 3007, 3008, 3013 and 7003 of RCRA to undertake enforcement actions in authorized States. With respect to such an enforcement action, the Agency will rely on Federal sanctions, Federal inspection authorities, and the Federal Administrative Procedure Act rather than the authorized State analogues to these requirements. Therefore, the Agency does not intend to incorporate by reference for purposes of enforcement such particular, authorized New Mexico enforcement authorities. Section 272.1601(b)(2) of 40 CFR lists those authorized New Mexico authorities that are part of the authorized program but are not incorporated by reference.

The public also needs to be aware that some provisions of the State's hazardous waste management program are not part of the Federally authorized State program. These non-authorized provisions include:

(1) provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which New Mexico is not authorized, but which have been incorporated into the State regulations because of the way the State adopted Federal regulations by reference.

State provisions which are "broader in scope" than the Federal program are not part of the State's authorized program and are not incorporated by reference in 40 CFR part 272. Section 272.1601(b)(3) of 40 CFR lists for reference and clarity the New Mexico provisions which are "broader in scope" than the Federal program and which are not, therefore, part of the authorized program being incorporated by reference. "Broader in scope" provisions will not be enforced by EPA; the State, however, will continue to enforce such provisions.

New Mexico has adopted but is not authorized for the Federal rules published in the **Federal Register** from January 28, 1983 through March 20, 1984 (48 FR 3977, 48 FR 39611, 48 FR 52718, 49 FR 5308, and 49 FR 10490); amendments to the Toxicity Characteristic Rule as published on October 5, 1990 (55 FR 40834), February 1, 1991 (56 FR 3978), February 13, 1991 (56 FR 5910) and April 2, 1991 (56 FR 13406); amendments to the F037 and F038 listings as published on May 13, 1991 (56 FR 21955); amendments to 40 CFR parts 260, 261, 264, 265 and 266 relative to the Recycled Used Oil Management Standards, as published on September 10, 1992 (57 FR 41565) and May 3, 1993 (58 FR 26420); amendments to the Boilers and Industrial Furnace Rule as published on November 9, 1993 (58 FR 59598); amendments to 40 CFR part 261 addressing Conditional Exemption for Scale Treatability Studies as published on February 18, 1994 (59 FR 8362) and amendments to 40 CFR part 264 regarding Letter of Credit as published on June 10, 1994 (59 FR 29958). Therefore, these Federal amendments included in New Mexico's adoption by reference of the Federal code at Title 20, Chapter 4, Part 1, New Mexico Administrative Code (20 NMAC 4.1), Subparts I, II, V, VI, and VII are not Federally enforceable.

Since EPA cannot enforce a State's requirements which have not been reviewed and approved according to the Agency's authorization standards, it is important that EPA clarify any limitations on the scope of a State's approved hazardous waste program. Thus, in those instances where a State's method of adopting Federal law by reference has the effect of including unauthorized requirements, EPA will provide this clarification by: (1) incorporating by reference the relevant State legal authorities according to the requirements of the Office of Federal Register; and (2) subsequently identifying in 272.1601(b)(4) any requirements which, while adopted and incorporated by reference, are not authorized by EPA, and therefore are not Federally enforceable. Thus, notwithstanding the language in the New Mexico hazardous waste regulations incorporated by reference at 272.1601(b)(1), EPA would only enforce the State provisions that are actually authorized by EPA. With respect to HSWA requirements for which the State has not yet been authorized, EPA will continue to enforce the Federal HSWA standards until the State receives specific HSWA authorization from EPA.

C. HSWA Provisions

As noted above, the Agency is not amending 40 CFR part 272 to include HSWA requirements and prohibitions that are immediately effective in New Mexico and other States. Section 3006(g) of RCRA provides that any requirement or prohibition of HSWA (including implementing regulations) takes effect in authorized States at the same time that it takes effect in nonauthorized States. Thus, EPA has immediate authority to implement a HSWA requirement or prohibition once it is effective. A HSWA requirement or prohibition supercedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Because of the vast number of HSWA statutory and regulatory requirements taking effect over the next few years, EPA expects that many previously authorized and incorporated by reference State provisions will be affected. The States are required to revise their programs to adopt the HSWA requirements and prohibitions by the deadlines set forth in 40 CFR 271.21, and then to seek authorization for those revisions pursuant to 40 CFR part 271. The EPA expects that the States will be modifying their programs substantially and repeatedly. Instead of amending the 40 CFR part 272 every time a new HSWA provision takes effect under the authority of RCRA section 3006(g), EPA will wait until the State receives authorization for its analog to the new HSWA provision before amending the State's 40 CFR part 272 incorporation by reference. In the interim, persons wanting to know whether a HSWA requirement or prohibition is in effect should refer to 40 CFR 271.1(j), as amended, which lists each such provision.

The incorporation by reference of State authorized programs in the CFR should substantially enhance the public's ability to discern the current status of the authorized State program and clarify the extent of Federal enforcement authority. This will be particularly true as more State program revisions to adopt HSWA provisions are authorized.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State,

local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The sections 202 and 205 requirements do not apply to today's action because it is not a "Federal mandate" and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because it merely grants authorization for existing requirements with which regulated entities must already comply under State law. Second, the Act also generally excludes from the definition of a "Federal mandate" duties that arise from participation in a voluntary Federal program. The requirements being authorized and codified today are the result of New Mexico's voluntary participation in accordance with RCRA subtitle C.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector because today's action grants authorization as well as incorporating by reference an existing State program that EPA previously authorized. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, section 203 of UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may be hazardous waste generators, transporters, or own and/or operate treatment, storage, and disposal facilities, this codification incorporates into the CFR New Mexico's requirements which have already been authorized by EPA under 40 CFR part 271 and, thus, small governments are not subject to any additional significant or unique requirements by virtue of this authorization and codification.

Certification Under the Regulatory Flexibility Act

The EPA has determined that this authorization and codification will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate treatment, storage, or disposal facilities are already subject to the state requirements authorized by EPA under 40 CFR part 271. The EPA's authorization and codification does not impose any additional burdens on these small entities. This is because EPA's codification would simply result in an administrative change, rather than a change in the substantive requirements imposed on small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this codification will not have a significant economic impact on a substantial number of small entities. This codification incorporates New Mexico's requirements into the CFR which have been authorized by EPA under 40 CFR part 271. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Submission to Congress and the Comptroller General

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

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Paperwork Reduction Act

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

List of Subjects in 40 CFR Part 272

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

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

Dated: March 19, 1998.

Lynda F. Carroll,

Acting Deputy Regional Administrator, Region 6.

40 CFR part 272 is amended as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

1. The authority citation for part 272 continues to read as follows:

Authority: Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

2. Subpart GG is amended by revising § 272.1601 to read as follows:

§ 272.1601 New Mexico State-Administered Program: Final Authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), New Mexico has final authorization for the following elements as submitted to EPA in New Mexico's base program application for final authorization which was approved by EPA effective January 25, 1985. Subsequent program revision applications were approved effective on April 10, 1990, July 25, 1990, December 4, 1992, August 23, 1994, December 21, 1994, July 10, 1995, January 2, 1996, March 10, 1997 and June 13, 1998.

(b) State Statutes and Regulations.

(1) The New Mexico statutes and regulations cited in this paragraph are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(i) The EPA Approved New Mexico Statutory Requirements Applicable to the Hazardous Waste Management Program, dated September 1997.

(ii) The EPA Approved New Mexico Regulatory Requirements Applicable to the Hazardous Waste Management Program, dated September 1997.

(2) The following statutes and regulations concerning State

enforcement, although not incorporated by reference, are part of the authorized State program:

(i) New Mexico Statutes 1978 Annotated, Inspection of Public Records Act, Chapter 14, Article 2, (1994 Cumulative Supplement), Sections 14–2–1 *et seq.*

(ii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (1993 Replacement Pamphlet), Sections 74–4–4 (except 74–4–4C), 74–4–4.1, 74–4–4.2C through 74–4–4.2F, 74–4–4.2G(1), 74–4–4.2H, 74–4–4.2I, 74–4–4.3 (except 74–4–4.3A(2) and 74–4–4.3F), 74–4–4.7B, 74–4–4.7C, 74–4–5, 74–4–7, 74–4–10, 74–4–10.1 (except 74–4–10.1C), 74–4–11 through 74–4–14.

(iii) Title 20, Chapter 4, Part 1, New Mexico Administrative Code (20 NMAC 4.1), effective November 11, 1995, Subpart IX, Section 4.1.901 (except 4.1.901.B.1 through 4.1.901.B.6) and Subpart X, Sections 4.1.1101, 4.1.1105, 4.1.1106, and 4.1.1109.

(3)(i) The following statutory provisions are broader in scope than the Federal program, are not part of the authorized program, and are not incorporated by reference:

(ii) New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4, (1993 Replacement Pamphlet), Sections 74–4–3.3 and 74–4–4.2J.

(4) *Unauthorized State Provisions* (i) The State's adoption of the Federal rules listed below is not approved by EPA and are, therefore, not enforceable:

Federal requirement	Federal Register reference	Publication date
Biennial Repot	48 FR 3977	01/28/83
Permit Rules; Settlement Agreement	48 FR 39611	09/01/83
Interim Status Standards; Applicability	48 FR 52718	11/22/83
Chlorinated Aliphatic Hydrocarbon Listing (F024)	49 FR 5308	02/10/84
National Uniform Manifest	49 FR 10490	03/20/84
Recycled Used Oil Management Standards	57 FR 41566: Amendments to 40 CFR Parts 260, 261 and 266.	09/10/92
	58 FR 26420: Amendments to 40 CFR Parts 261, 264 and 265.	05/03/93
Revision of Conditional Exemption for Small Scale Treatability Studies	59 FR 8362	02/18/94
Letter of Credit Revision	59 FR 29958	06/10/94

(ii) Additionally, New Mexico has adopted but is not authorized to implement the HSWA rules that are listed below in lieu of EPA. The EPA will continue to enforce the Federal HSWA standards for which New Mexico is not authorized until the State receives specific authorization from EPA.

Federal requirement	Federal Register reference	Publication date
Toxicity	55 FR 40834	10/05/90
Characteristic	56 FR 3978	02/01/91
Hydrocarbon Recovery Operations	56 FR 13406	04/02/91
Toxicity	56 FR 5910	02/13/91
Characteristic		
Chlorofluorocarbon		
Refrigerants		
Revisions to the Petroleum Refining Primary and Secondary Oil/Water/Solids Separation Sludge Listings (F037 and F038).	56 FR 21955	05/13/91
Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues.	58 FR 59598	11/09/93

(5) Memorandum of Agreement. The Memorandum of Agreement between EPA Region 6 and the State of New Mexico signed by the EPA Regional Administrator on December 11, 1996, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) Statement of Legal Authority. "Attorney General's Statement for Final Authorization," signed by the Attorney General of New Mexico on January 1985, and revisions, supplements and addenda to that Statement dated April 13, 1988; September 14, 1988; July 19, 1989; July 23, 1992; February 14, 1994; July 18, 1994; July 20, 1994; August 11, 1994; November 28, 1994; August 24, 1995; and January 12, 1996, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) Program Description. The Program Description and any other materials submitted as part of the original application or as supplements thereto are referenced as part of the authorized hazardous waste management program *under* subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

3. Appendix A to part 272 is amended by revising the listing for "New Mexico" to read as follows:

* * * * *

New Mexico

The statutory provisions include:

New Mexico Statutes 1978 Annotated, Hazardous Waste Act, Chapter 74, Article 4 (1993 Replacement Pamphlet), Sections 74–4–2, 74–4–3 (except 74–4–3L, 74–4–3O and 74–4–3R), 74–4–3.1, 74–4–4.2A, 74–4–4.2B, 74–4–4.2G introductory paragraph, 74–4–4.2G(2), 74–4–4.3F, 74–4–4.7 (except 74–4–4.7B and 74–4–4.7C), 74–4–9 and 74–4–10.1C, as published by the Michie Company, Law Publishers, 1 Town Hall Square, Charlottesville, Virginia 22906–7587.

The regulatory provisions include:

Title 20, Chapter 4, Part 1, New Mexico Annotated Code (20 NMAC 4.1), effective November 11, 1995, Subpart I, Sections 4.1.101 and 4.1.102; Subpart II, Section 4.1.200; Subpart III, Sections 4.1.300 and 4.1.301; Subpart IV,

Sections 4.1.400 and 4.1.401; Subpart V, Sections 4.1.500 and 4.1.501; Subpart VI, Sections 4.1.600 and 4.1.601; Subpart VII, Section 4.1.700; Subpart VIII, Section 4.1.800; Subpart IX, Sections 4.1.900, 4.1.901.B.1 through 4.1.901.B.6; and Subpart X, Section 4.1.1103. Copies of the New Mexico regulations can be obtained from the New Mexico Commission of Public Records, State Records Center and Archives, State Rules Division, 404 Montezuma Avenue, Santa Fe, NM 87501–2502.

* * * * *

[FR Doc. 98–11280 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 96–171; RM–8846, RM–9145]

Radio Broadcasting Services; Indian Springs, NV, Mountain Pass, CA, Kingman, AZ, St. George, UT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Claire B. Benezra, substitutes Channel 257C for Channel 257A at Indian Springs, NV, and modifies the construction permit of Station KPXC to specify operation on the higher powered channel. To accommodate the allotment at Indian Springs, Channel 259B is substituted for Channel 258B at Mountain Pass, CA, Channel 261C2 is substituted for Channel 260C2 at Kingman, AZ, and Channel 260C is substituted for Channel 259C at St. George, UT. The licenses of Stations KHYZ, KGMN and KZEZ are modified respectively. *See* 61 FR 44287, August 28, 1996. At the request of Indian Springs Broadcasting Company and Calvin J. and Lois A. Mandel, Channel 272C is allotted to Indian Springs. With this action, this proceeding is terminated.

DATES: Effective June 1, 1998. A filing window for Channel 272C at Indian Springs, NV, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 96–171, adopted April 8, 1998, and released April 17, 1998. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Channel 257C can be allotted to Indian Springs in compliance with the Commission's minimum distance separation requirements with a site restriction of 21.2 kilometers (13.2 miles) southwest to accommodate petitioner's desired transmitter site. Channel 272C can be allotted to Indian Springs with a site restriction of 18.4 kilometers (11.4 miles) northwest to avoid a short-spacing to Station KFMS-FM, Channel 270C, Las Vegas, Nevada. Channel 261C2 can be allotted to Kingman, Arizona, at Station KGMN's licensed transmitter site. Channel 260C can be allotted to St. George, Utah, at Station KZEZ's licensed transmitter site. Channel 259B can be allotted to Mountain Pass, California, at Station KHYZ's licensed transmitter site. The coordinates for Chanel 257C at Indian Springs, NV, are 36–25–18 NL; 115–48–35 WL. The coordinates for Channel 272C at Indian Springs are 36–41–41; 115–48–37. The coordinates for Channel 261C2 at Kingman, AZ, are 35–06–37; 113–52–55. The coordinates for Channel 260C at St. George, UT, are 36–50–49; 113–29–28. The coordinates for Channel 259B at Mountain Pass, CA, are 35–29–27; 115–33–27. Concurrence by the Mexican government in the allotments at Kingman and Mountain Pass has been received since both communities are located within 320 kilometers (199 miles) of the U.S.-Mexican border.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Arizona, is amended by removing Channel 260C2 and adding Channel 261C1 at Kingman.

3. Section 73.202(b), the Table of FM Allotments under California, is amended by removing Channel 258B and adding Channel 259B at Mountain Pass.

4. Section 73.202(b), the FM Table of Allotments under Nevada, is amended by removing Channel 257A and adding Channel 257C and Channel 272C at Indian Springs.

5. Section 73.202(b), the FM Table of Allotments under Utah, is amended by removing Channel 259C and adding Channel 260C at St. George.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 98–11097 Filed 4–27–98; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[Docket No. 961217358–6358–01; I.D. 041995B]

RIN 0648–XX77

Threatened Fish and Wildlife; Change in Listing Status of Steller Sea Lions Under the Endangered Species Act; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects the preamble to a final rule (I.D. 041995B) published in the *Federal Register* of May 5, 1997, regarding the Change in the Listing Status of Steller Sea Lions under the Endangered Species Act. This correction clarifies the scope of this final rule.

DATES: April 27, 1998.

FOR FURTHER INFORMATION CONTACT: Margot Bohan, NMFS/FPR, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Need for Correction

As published, a description was inappropriately inserted in the last sentence of the summary section describing the populations affected by this listing change. This error changed the intent of the final rule by appearing to focus only on the U.S. population segment of Steller sea lions, as opposed to focusing on the Steller sea lion species throughout its entire range.

Accordingly, the publication of the final rule FR Doc. 97–11668, that

published on May 5, 1997 (62 FR 24345), is corrected as follows:

On page 24345, in the third column, in the last line of the summary, remove "U.S." before the words "Steller sea lion population."

Dated: April 22, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 98–11244 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971015246–7293–02; I.D. 041398A]

Fisheries of the Northeastern United States; Summer Flounder and Scup Fisheries; Readjustments to 1998 Quotas; Commercial Summer Period Scup Quota Harvested for Maryland

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

ACTION: Commercial quota adjustment, notice of commercial quota harvest.

SUMMARY: NMFS issues this notification announcing adjustments to the 1998 summer flounder commercial state quotas and the 1998 scup Summer period state quotas. This action complies with regulations implementing the Fishery Management Plan for the Summer Flounder, Scup, and Black Sea Bass Fisheries (FMP), which require that landings in excess of a state's annual summer flounder commercial quota and Summer period scup commercial quota be deducted from a state's respective quota the following year. The public is advised that quota adjustments have been made, and is informed of the revised quotas for the affected states.

DATES: Effective April 23, 1998, through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Regina L. Spallone, Fishery Policy Analyst, 978–281–9221.

SUPPLEMENTARY INFORMATION:

Summer Flounder

Regulations implementing summer flounder management measures are found at 50 CFR part 648, subparts A and G. The regulations require annual specification of a commercial quota that is apportioned among the Atlantic coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state are described in § 648.100. The final specifications for the 1998 summer flounder fishery, adopted to ensure achievement of a fishing mortality rate (F) of 0.24 for 1998, set a commercial quota equal to 11,105,636 lb (5.0 million kg) (62 FR 66304, December 18, 1997).

Section 648.100(d)(2) provides that all landings for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of the state's quota must be deducted from that state's annual quota for the following year. NMFS published a preliminary adjustment to the states' annual quotas on January 23, 1998 (63 FR 3478), that deducted for state overages in the 1997 fishery. When those data were presented, NMFS noted that the data used in making the adjustments were preliminary, and if additional data became available that altered the figures, an additional adjustment would be necessary. Since that time, additional data have been submitted by state fisheries agencies and federally permitted dealers who submitted late reports. Additional landings were reported as the result of NMFS Law Enforcement investigations. Further Law Enforcement investigations are ongoing and a resulting quota adjustment from those investigations will be published if necessary.

Based on dealer reports and other available information, NMFS has determined that the States of Maine, Massachusetts, Connecticut, New York, Delaware, Maryland, Virginia, and North Carolina exceeded their 1997 quotas. The remaining States of New Jersey, Rhode Island, and New Hampshire did not exceed their 1997 quotas. This finding differs from that noted in the notice of preliminary quota adjustment, published on January 23, 1998 (63 FR 3478). At that time, Connecticut and Virginia did not appear to have exceeded their 1997 quotas.

The final 1997 landings and overages for all states and how those landings compare with the 1997 landings originally reported in the January notice are given in Table 1. This table illustrates that, in the following states, the revised 1997 landings resulted in additional overage to a state's quota: Massachusetts, New York, Delaware, Maryland, and North Carolina. There was no change to the data reported in Maine and New Hampshire. In the State of Rhode Island, revised landings are fewer than what were originally reported. The State of New Jersey showed additional landings, but those data still did not result in an overage for that State. Based on the revised data, the State of Connecticut and the Commonwealth of Virginia changed from a no-overage status to an overage. The revised 1998 commercial summer flounder quota for each state is given in Table 2. While this action adjusts the final quotas allocated to the states, it does not alter the notification of commercial quota harvest in the State of Delaware as indicated in that January notice.

TABLE 1.—SUMMER FLOUNDER FINAL 1997 COMMERCIAL LANDINGS COMPARED TO THE PRELIMINARY 1997 LANDINGS, BY STATE

State 1997	1997 quota [1]		Preliminary 1997 landings [2]		Final 1997 landings		Final 1997 overage	
	Lb	(Kg) [3]	Lb	(Kg)	Lb	(Kg)	Lb	(Kg)
ME	2,342	1,062	2,835	1,286	2,835	1,286	493	224
NH	51	23	0	0	0	0	0	0
MA	709,229	321,701	745,105	337,974	745,171	338,004	35,942	16,303
RI	1,596,443	724,134	1,584,641	718,781	1,557,867	706,637	0	0
CT	246,924	120,031	246,924	112,003	247,258	112,154	334	151
NY	754,343	342,164	814,027	369,236	815.741	370,014	61,398	27,850
NJ	1,323,474	600,318	1,316,837	597,307	1,319,446	598,491	0	0
DE	[4] (5,662)	(2,568)	4,393	1,993	5,187	2,353	10,849	4,921
MD	188,254	85,391	203,961	92,515	214,948	97,499	26,694	12,108
VA	2,294,793	1,040,901	2,253,809	1,022,311	2,305,985	1,045,977	11,192	5,077

TABLE 1.—SUMMER FLOUNDER FINAL 1997 COMMERCIAL LANDINGS COMPARED TO THE PRELIMINARY 1997 LANDINGS, BY STATE—Continued

State 1997	1997 quota [1]		Preliminary 1997 landings [2]		Final 1997 landings		Final 1997 overage	
	Lb	(Kg) [3]	Lb	(Kg)	Lb	(Kg)	Lb	(Kg)
NC	1,273,605	577,698	1,455,212	660,073	1,673,345	759,017	399,740	181,319
Total	8,383,796	3,802,826	8,627,744	3,913,479	8,887,783	4,031,431	546,642	247,953

[1] 1997 quota as published December 18, 1997 (62 FR 66304).
[2] 1997 landings data as published January 23, 1998 (63 FR 3478).
[3] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[4] Parentheses indicate a negative number.

TABLE 2.—SUMMER FLOUNDER FINAL 1998 QUOTAS

State	Unadjusted 1998 quota [1]		Preliminary adjusted 1998 quota [2]		Final readjusted 1998 quota	
	lb	(Kg) [3]	lb	(Kg)	lb	(Kg)
ME	5,284	2,397	4,791	2,173	4,791	2,173
NH	51	23	51	23	51	23
MA	757,841	343,751	721,965	327,478	721,899	327,448
RI	1,742,583	790,422	1,742,583	790,422	1,742,583	790,422
CT	250,791	113,757	250,791	113,757	250,457	113,605
NY	849,680	385,408	789,996	358,336	788,282	357,559
NJ	1,858,363	842,939	1,858,363	842,939	1,858,363	842,939
DE	[4] (3,685)	(1,671)	(13,740)	(6,232)	(14,534)	(6,593)
MD	226,570	102,770	210,863	95,646	199,876	90,662
VA	2,368,569	1,074,365	2,368,569	1,074,365	2,357,377	1,069,288
NC	3,049,589	1,383,270	2,867,982	1,300,895	2,649,849	1,201,951
Total	11,105,636	5,037,432	10,802,214	4,899,802	10,558,994	4,789,479

[1] As published on December 18, 1997 (62 FR 6304).
[2] As published on January 23, 1998 (63 FR 3478).
[3] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[4] Parentheses indicate a negative number.

Scup

Regulations implementing scup management measures are found at 50 CFR part 648, subparts A and H. The regulations require annual specification of a commercial quota that is allocated into three periods: Winter I, Summer, and Winter II. During Winter I and Winter II periods, the commercial quota is distributed to the coastal states from Maine through North Carolina on a coastwide basis. During the Summer period, the commercial quota is apportioned among the Atlantic coastal states from Maine through North Carolina. The process to set the annual commercial quota and the percent allocated to each state during the Summer period is described in § 648.120. The final specifications for the 1998 scup fishery, adopted to ensure achievement in 1998 of a target exploitation rate of 47 percent, the rate associated with F=0.72, set a commercial quota equal to 4,572,000 lb (2.07 million kg) (62 FR 66304, December 18, 1997).

The 1997 Winter I and Winter II period landings are shown in Table 3.—Landings did not exceed the allowable quota for either period. Therefore, no deductions from those periods are necessary.

TABLE 3. FINAL 1997 WINTER PERIOD COMMERCIAL SCUP LANDINGS

Period	1997 quota		1997 landings		1997 overage	
	Lb	(Kg)	Lb	(Kg)	Lb	(Kg)
Winter I	2,706,000	1,227,693	2,046,701	928,368	0	0
Winter II	956,400	433,816	569,412	258,281	0	0

Section 648.120(d)(4) provides that all scup landed for sale in a state during the Summer period shall be applied against that state's summer commercial quota, regardless of where the scup were harvested. Section 648.120(d)(6) provides that any overages of the commercial quota landed in any state during the Summer period will be deducted from that state's Summer period quota for the following year. When the data were presented in the January notice, NMFS noted that the data used in making the adjustments were preliminary, and, if additional data became available that altered the figures, an additional adjustment would be necessary. Since that time, additional data have been submitted by state fisheries agencies and federally permitted dealers who submitted late reports.

Based on dealer reports and other available information, NMFS has

determined that the States of Massachusetts, Delaware, and Maryland have exceeded their 1997 Summer period quota for scup. The remaining States of Maine, Rhode Island, Connecticut, New York, New Jersey, Virginia, and North Carolina did not exceed their 1997 Summer period quotas. This finding differs from that noted in the notice of preliminary quota adjustment. At that time, Delaware and Maryland did not appear to have exceeded their 1997 Summer period quotas. But Massachusetts and North Carolina appeared to have exceeded theirs.

The revised 1997 Summer period landings for all states and how those landings compare with the 1997 landings originally reported in the January notice are given in Table 4. This table illustrates that, in the States of Massachusetts, Delaware, and Maryland, the revised 1997 landings resulted in overage or additional overage to a state's quota. There was no change to the data reported in Maine and New Hampshire. In the States of Rhode Island and North Carolina, the revised landings are less than what was originally reported. The States of Connecticut, New York, New Jersey, and Virginia showed additional landings, but those data did not result in overages for those States.

The revised 1998 commercial Summer period scup quota for each state is given in Table 5. While this action adjusts the final Summer period quotas allocated to the states, it does not alter the notification of commercial quota harvest in the Commonwealth of Massachusetts as indicated in that January notice or in the State of Delaware as indicated in the final specifications. However, this notice does eliminate the overage and subsequent reduction of Summer period quota in the State of North Carolina.

Section 648.121(b) requires the Administrator, Northeast Region, NMFS (Regional Administrator) to monitor the Summer period state commercial quotas and to determine the date when a state's commercial quota is harvested. NMFS is required to publish notification in the **Federal Register** advising a state and notifying vessel and dealer permit holders that, effective upon a specific date, a state's Summer period commercial scup quota has been harvested and that no Summer period commercial quota is available for landing scup for the remainder of the period.

Since this adjustment reduces the 1998 Maryland Summer period commercial quota allocation from 229 lb (104 kg) to −635 lb (−288 kg), this document also announces that the Summer period quota available to Maryland has been harvested and that no commercial quota is available for landings during the 1998 Summer period.

The regulations at § 648.4(b) provide that Federal scup commercial permit holders agree as a condition of the permit not to land scup in any state that the Regional Administrator has determined no longer has commercial quota available. Therefore, effective 0001 hours May 1, 1998, until 2400 hours, October 31, 1998, landings of scup in Maryland by vessels holding Federal commercial scup fisheries permits are prohibited, unless additional quota becomes available through a transfer and is announced in the **Federal Register**. Federally permitted dealers are also advised that they may not purchase scup from federally permitted scup vessels that land in Maryland for the Summer period or until additional quota becomes available through a transfer.

TABLE 4.—SCUP FINAL 1997 SUMMER PERIOD COMMERCIAL LANDINGS COMPARED TO THE PRELIMINARY 1997 LANDINGS, BY STATE

State	1997 quota		Preliminary 1997 landings [1]		Final 1997 landings		Final 1997 overage	
	Lb	(Kg) [2]	lb	(Kg)	lb	(Kg)	lb	(Kg)
ME	3,048	1,383	0	0	0	0	0	0
NH	1	0	0	0	0	0	0	0
MA	362,029	164,214	1,428,183	647,813	1,486,630	674,324	1,124,601	510,110
RI	1,415,425	642,026	398,880	180,929	353,735	160,451	0	0
CT	79,431	36,029	40,858	18,533	65,642	29,775	0	0
NY	398,527	180,769	221,320	100,389	307,159	139,325	0	0
NJ	73,453	33,318	2,056	933	2,181	989	0	0
DE	0	0	0	0	51	23	51	23
MD	301	137	162	73	1,165	528	864	392
VA	4,157	1,886	148	67	354	161	0	0
NC	628	285	888	403	575	261	0	0
Total	2,337,000	1,060,045	2,092,495	949,140	2,217,492	1,005,837	1,125,516	510,525

[1] Original 1997 Summer period landings data, as published January 23, 1998 (63 FR 3478).
[2] Kilograms are as converted from pounds, and may not necessarily add due to rounding.

TABLE 5.—FINAL READJUSTED 1998 SUMMER PERIOD QUOTAS

State	Unadjusted 1998 quota [1]		Preliminary adjusted 1998 quotas [2]		Final readjusted 1998 quotas	
	Lb	(Kg) [3]	Lb	(Kg)	Lb	(Kg)
ME	2,322	1,053	2,322	1,053	2,322	1,053
NH	1	0	1	0	1	0
MA	275,866	125,131	[4] (790,288)	(358,469)	(848,735)	(384,980)
RI	1,078,554	489,224	1,078,554	489,224	1,078,554	489,224
CT	60,526	27,454	60,526	27,454	60,526	27,454
NY	303,678	137,746	303,678	137,746	303,678	137,746
NJ	55,972	25,388	55,972	25,388	55,972	25,388

TABLE 5.—FINAL READJUSTED 1998 SUMMER PERIOD QUOTAS—Continued

State	Unadjusted 1998 quota [1]		Preliminary adjusted 1998 quotas [2]		Final readjusted 1998 quotas	
	Lb	(Kg) [3]	Lb	(Kg)	Lb	(Kg)
DE	0	0	0	0	(51)	(23)
MD	229	104	229	104	(635)	(288)
VA	3,167	1,437	3,167	1,437	3,167	1,437
NC	479	217	219	99	479	217
Total	1,780,794	807,755	714,380	324,037	655,278	297,252

[1] As published on December 18, 1997 (62 FR 66304).
[2] As published on January 23, 1998 (63 FR 3478).
[3] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[4] Parentheses indicate a negative number.

Classification

This action is required by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: April 23, 1998.

George H. Darcy,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 98–11241 Filed 4–23–98; 2:23 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 63, No. 81
Tuesday, April 28, 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.

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Ch. XIII

Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider bylaw amendments, issues relating to the Commission's upcoming rulemaking procedure and matters relating to administration.

DATES: The meeting is scheduled for Thursday, May 7, 1998 commencing at 1:30 PM to adjournment.

ADDRESSES: The meeting will be held at the Cat 'n Fiddle Restaurant, 118 Manchester Street, Concord, New Hampshire (exit 13 off Interstate 93).

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Northeast Dairy Compact Commission will hold its regularly scheduled monthly meeting. The Commission will consider certain bylaw amendments including the separate promulgation as a rule of the provisions relating to the referendum procedure, administration matters and issues relating to the Commission's upcoming rulemaking procedure.

(**Authority:** (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress; Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.)

Daniel Smith,

Executive Director.

[FR Doc. 98–11184 Filed 4–27–98; 8:45 am]

BILLING CODE 1650–01–P

DEPARTMENT OF JUSTICE

28 CFR Part 100

RIN 1105–AA39

Implementation of Section 109 of the Communications Assistance for Law Enforcement Act: Proposed Definition of "Significant Upgrade or Major Modification"

AGENCY: Federal Bureau of Investigation, DOJ.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FBI proposes to amend the Communications Assistance for Law Enforcement Act (CALEA) Cost Recovery Regulations by adding a new section which defines the term "Significant Upgrade or Major Modification." This NPRM sets forth both the FBI's proposed section and the rationale behind the proposed definition. The addition of this section will clarify the applicability of the CALEA, Cost Recovery Regulations and assist the telecommunications industry in assessing its responsibilities under CALEA.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Comments should be submitted to the Telecommunications Contracts and Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 20153–0450, Attention: CALEA FR Representative. All comments will be available from the FBI Reading Room located at FBI Headquarters, 935 Pennsylvania Avenue, NW., Washington, DC 20535. To review the comments, interested parties should contact Ms. Mary Stuzman, FBI Reading Room, FBI Headquarters, telephone number (202) 324–2664, to schedule an appointment (48 hours advance notice required). See Section G of the Supplementary Information for further information on electronic submission of comments.

FOR FURTHER INFORMATION CONTACT: Walter V. Meslar, Unit Chief, Telecommunications Contracts and Audit Unit, Federal Bureau of Investigation, P.O. Box 221286, Chantilly, VA 20153–0450, telephone number (703) 814–4900.

SUPPLEMENTARY INFORMATION:

A. General Background

Recent and continuing advances in telecommunications technology and the introduction of new digitally-based services and features have impaired the ability of federal, state, and local law enforcement agencies to fully and properly conduct various types of court-authorized electronic surveillance. Therefore, on October 25, 1994, the President signed into law the Communications Assistance for Law Enforcement Act (CALEA) (Public Law 103–414, 47 U.S.C. 1001 *et seq.*). This law requires telecommunications carriers, as defined in CALEA, to ensure that law enforcement agencies, acting pursuant to court order or other lawful authorization, are able to intercept communications regardless of advances in telecommunications technologies.

Under CALEA, certain implementation responsibilities are conferred upon the Attorney General; the Attorney General has, in turn, delegated responsibilities set forth in CALEA to the Director, FBI, or his designee, pursuant to 28 CFR 0.85(o). The Director, FBI, has designated the Telecommunications Industry Liaison Unit of the Information Resources Division and the Telecommunications Contracts and Audit Unit of the Finance Division to carry out these responsibilities.

One of the CALEA implementation responsibilities delegated to the FBI is the establishment, after notice and comment, of regulations necessary to effectuate timely and cost-efficient payment to telecommunications carriers for certain modifications made to equipment, facilities and services (hereafter referred to as "equipment") to make that "equipment" compliant with CALEA.[1] Section 109(b)(2) of CALEA authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for additional reasonable costs directly associated with making the assistance capability requirements found in section 103 of CALEA reasonably achievable with respect to

[1] CALEA § 109(e).

"equipment" installed or deployed after January 1, 1995, in accordance with the procedures established in section 109(b)(1) of CALEA.[2] Section 104(e) of CALEA authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for reasonable costs directly associated with modifications of any of a carrier's systems or services, as identified in the Carrier Statement required by CALEA section 104(d), which do not have the capacity to accommodate simultaneously the number of interceptions, pen registers, and trap and trace devices set forth in the Capacity Notice(s) published in accordance with CALEA section 104. Finally, section 109(a) of CALEA authorizes the Attorney General, subject to the availability of appropriations, to agree to pay telecommunications carriers for all reasonable costs directly associated with the modifications performed by carriers in connection with "equipment" installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with the assistance capability requirements found in section 103 of CALEA. However, reimbursement under section 109(a) of CALEA is modified by the requirements of section 109(d), which states:

If a carrier has requested payment in accordance with procedures promulgated pursuant to subsection (e) [Cost Control Regulations], and the Attorney General has not agreed to pay the telecommunications carrier for all reasonable costs directly associated with modifications necessary to bring any equipment, facility, or service deployed on or before January 1, 1995, into compliance with the assistance capability requirements of section 103, such equipment, facility, or service shall be considered to be in compliance with the assistance capability requirements of section 103 until the equipment, facility, or service is *replaced or significantly upgraded or otherwise undergoes major modification.* (emphasis added).

While this section deals specifically with a carrier's compliance with CALEA, the phrase "significantly upgraded or otherwise undergoes major modification" (hereafter referred to as "significant upgrade or major modification"), depending on a carrier's actions after January, 1995, also has a direct bearing on the eligibility for reimbursement of some "equipment" installed or deployed on or before January 1, 1995.[3]

B. CALEA Cost Recovery Regulations

As required by CALEA § 109(e), the FBI, after notice and comment, promulgated the CALEA Cost Recovery Regulations (62 FR 13307, 28 CFR part 100), which establish the procedures which telecommunications carriers must follow in order to receive reimbursement under Sections 109(a), 109(b) and 104(e) of CALEA, as discussed above. Specifically, the Cost Recovery Regulations set forth the means of determining allowable costs, reasonable costs, and disallowed costs. Furthermore, they establish the threshold requirements carriers must meet in their submission of cost estimates and requests for payment to the Federal Government for the disbursement of CALEA funds. Additionally, they ensure the confidentiality of trade secrets and protect proprietary information from unnecessary disclosure. Finally, they set forth the means for alternative dispute resolution.

Of particular interest for the purposes of this proposed amendment to the Cost Recovery Regulations is § 100.11(a)(1) of 28 CFR part 100, which includes in the costs eligible for reimbursement under section 109(e) of CALEA:

All reasonable plant costs directly associated with the modifications performed by carriers in connection with equipment, facilities, and services installed or deployed on or before January 1, 1995, to establish the capabilities necessary to comply with section 103 of CALEA, *until the equipment, facility, or service is replaced or significantly upgraded or otherwise undergoes major modifications;* (emphasis added).

At the proposed rule stage of the rulemaking process establishing the Cost Recovery Regulations, the FBI received comments from 16 representatives of the telecommunications industry, including wireline and wireless carriers and associations. Of the 16 sets of comments received on the proposed rule, half requested that the FBI define "significant upgrade or major modification" as used in § 100.11(a)(1) of the proposed cost recovery rules.

Given the dynamic nature of the telecommunications industry and the potential impact on eligibility for reimbursement, the FBI acknowledged that "significant upgrade or major modification" must be defined. Therefore, on November 19, 1996, the FBI published an Advanced Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (61 FR 58799), which solicited the submission of potential definitions of "significant upgrade or major modification" from the telecommunications industry and the general public. This ANPRM was also sent to a large number of associations representing the interests of the various telecommunications carriers, both wireless and wireless.

In response to the ANPRM, the FBI received comments from 13 representatives of the telecommunications industry, including wireless and wireless carriers and associations. All comments received have been fully considered in preparing this proposed definition of "significant upgrade or major modification." Significant comments received in response to the ANPRM are also summarized in Section D, below. Additionally, in developing this proposed definition, the FBI has relied on the input of other governmental agencies and telecommunications industry experts.

C. Definition Development

1. Introduction

Committed to the consultative process and to maintaining an on-going dialogue with the telecommunications industry, the FBI published its ANPRM in order to draw on the expertise of that industry so that the FBI could gain an understanding of the range of options available with regard to "significant and upgrade or major modification." Therefore, the FBI requested that telecommunications carriers and other interested parties submit potential definitions of "significant upgrade or major modification" in response to the ANPRM. However, the FBI did not leave off working on a definition of "significant upgrade or major modification" in the interim. Rather, the FBI, in addition to considering the potential definitions submitted by the industry, also explored a number of means of defining this term. Specifically, the FBI has examined three definitional approaches: Accounting, Technical, and Public Safety. Each of these approaches, along with relevant public comments received and the results of the Bureau's research, is discussed in detail below.

2. Accounting Approaches

In order to define "significant upgrade or major modification" in accounting terms, the FBI first sought to determine at what point expenditures would be considered significant in either dollar or

[2] CALEA Section 109(b)(1) sets forth the procedures and the criteria the Federal Communications Commission (FCC) will use to determine if the modifications are "reasonably achievable".

[3] "Significant upgrade or major modification" also appears in CALEA § 108(c)(3)(B) with regard to the limitations placed upon the issuance of enforcement orders under 18 U.S.C. 2522.

percentage terms. It became immediately apparent that a specific dollar figure could not be determined in light of the differences between wireline and wireless switching equipment and the dearth of available information on wireless carrier expenditures.

In an effort to establish the threshold for significance in terms of a specific percentage, the FBI researched several accounting and procurement regulation sources. As a result of this research, the FBI identified two references which generally support 20% as being the threshold for significance. In the Accounting Principles Board Opinion-18 (APB–18) pronouncement concerning the equity method of accounting for investments in common stock, the term "significant" is used when it refers to influence over the operating and financial policies of the investee. APB–18, paragraph 17, reads: "Absent evidence to the contrary, an investment (directly or indirectly) of 20% or more in the voting stock of an investee is presumed to indicate the ability to exercise significant influence, and the equity method is required for fair presentation." There was also a presumption in APB–18 that "significant" influence does not exist in an investment of less than 20%.

The use of the 20% threshold for significance is also supported in the Communications Act of 1934, Section 310, which indicates that a station license shall not be granted to "any corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens."[4] This would seem to indicate that control of 20% of the capital stock imparts significant influence upon the stockholder.

In each of the above references it can be inferred that 20% was considered to be the threshold for significance. Translating this inference to the task of defining "significant upgrade or major modification," it could be argued that any telecommunications carrier that incurred expenditures equal to or exceeding 20% of the telecommunications plant in-service value of a switch has made a "significant upgrade or major modification" to that switch.

Based on this premise the FBI could define "significant upgrade or major modification" in financial terms as follows: "A significant upgrade or major modification is defined as any improvement to a carrier's existing equipment, facilities, or services for which the construction, installation, and acquisition costs of the project equal or exceed 20% of the telecommunications plant in-service value in switching equipment and switching assets used for stored program control."

However, this accounting definition ultimately proved untenable. First, it is possible for a carrier to make a modification or upgrade which could cross the 20% threshold, yet have no impact on law enforcement's ability to conduct lawfully authorized electronic surveillance. Such an occurrence would be inconsistent with the intent of CALEA. Additionally, given the wide variety of network-based systems in use today, it would be extremely difficult to determine precisely to what the 20% threshold should apply (e.g., the entire network, a specific switch, an available feature). In practice, applying such a percentage to a telecommunications network would ultimately create more confusion than it would resolve. Therefore, the FBI discarded this approach.

3. Technical Approaches

The FBI also considered a number of technical approaches to defining "significant upgrade or major modification." The term "significant" was used in relation to equipment upgrades by the Federal Communications Commission (FCC) in only one telecommunications proceeding during the past few years: FCC Docket Number 95–116, Telephone Number Portability ("Number Portability Proceeding"). The discussion of implementation costs in the Number Portability Proceeding states: "long-term, or database, number portability methods require significant network upgrades, including installation of number portability-specific switch software, implementation of Signaling System No. 7 and Intelligent Network or Advance Intelligent Network capability, and the construction of multiple number portability databases."[5] This specific reference to "significant network upgrades" does not, however, provide a generic definition; rather, it provides only examples of upgrades which could be considered significant.

As the FBI worked through a number of technical definitions, some dealing with software generics, some dealing with switch architecture, it became apparent that every technical definition was open to question on some type of equipment. Furthermore, each technical definition proposed left ambiguities and called for constant definition of the terms used. Therefore, the FBI discarded this approach for the long term.

4. Public Safety Approaches

The intent of CALEA is to ensure that law enforcement agencies, acting pursuant to court order or other lawful authorization, will continue to be able to interpret communications regardless of advances in telecommunications technologies. Therefore, the FBI began to look at defining "significant upgrade or major modification" from a public safety perspective. In doing so, the FBI determined that any new modification or upgrade which created an impediment to lawfully authorized electronic surveillance could be considered "significant" or "major" given the intent of CALEA in that it would endanger public safety and prevent law enforcement from carrying out its mission. Therefore, the FBI developed the following definition: "the term 'significant upgrade or major modification' means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance."

However, the FBI recognizes that events have overtaken the CALEA implementation process, specifically the enactment of the Telecommunication Act of 1996, and that carriers could not cease all activity on their systems until a definition of "significant upgrade or major modification" was promulgated. Therefore, in the interests of reasonableness, the FBI developed the following bipartite definition:

§ 100.22 Definition of "significant upgrade or major modification."

(a) For equipment, facilities or services for which an upgrade or modification has been completed on or before October 25, 1998, the term "significant upgrade or major modification" means any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility, or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute;

(b) For equipment, facilities or services for which an upgrade or modification is completed after October 25, 1998, the term "significant upgrade or major modification" means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute.

[4] 47 U.S.C. 310(b)(3).

[5] Telephone Number Portability, First Report and Order and Further Notice of Proposed Rule Making, CC Docket No. 95–116 (1996), paragraph 122.

The technical terminology in proposed § 100.22(a) is derived from the comments submitted by the telecommunications industry in response to the ANPRM. Given that October 25, 1998 is the compliance date for CALEA capability, the FBI believes that this initial definition will give carriers the time they need to make appropriate business decisions about their "equipment" in light of CALEA's "significant upgrade or major modifications'" clause and will not penalize carries for most upgrades or modifications made to their "equipment" while both a definition of "significant upgrade or major modification" and a CALEA solution were unavailable. However, carriers who made upgrades or modifications about which no argument can be made regarding their "significance" (e.g. changing from analogue to digital switching) will still be required to comply with CALEA at their own expense.

Proposed § 100.22(b) will then carry out the intent of CALEA by ensuring that law enforcement will continue to be able to carry out lawfully authorized electronic surveillance in cases where carriers made informed business decisions to modify or upgrade their equipment in such a way which impedes law enforcement. Carriers do not modify or upgrade equipment at random; such business decisions are made so that they will ultimately increase a carrier's revenue. With the promulgation of this definition, carriers will be able to factor the requirements and costs of CALEA compliance into their decisions, thereby being able to determine if upgrading or modification is the best decision at that time.

D. Industry Comments in Response to ANPRM

In response to the ANPRM, commenters raised a number of issues, many of which had little direct bearing on the issue of defining the term "significant upgrade or major modification" and have since been addressed in the final CALEA cost recovery rule (62 FR 13307). Therefore, the FBI has opted to address in this document only those comments which have a direct bearing on "significant upgrade or major modification" and which have not been previously addressed in print.

1. Definition of "Installed or Deployed"

The CALEA Cost Recovery Rules (28 CFR part 100) define "installed or deployed" as follows: "*Installed or deployed* means that, on a specific switching system, equipment, facilities, or services are operable and available for use by the carrier's customers." (28 CFR 100.10). Several commenters responding to the ANPRM argues that "deployed" should mean "commercially available prior to January 1, 1995" and should, therefore, be defined separately from "installed."

The FBI believes that the commenters' proposed definition of "deployed" as it is used in CALEA is incorrect. CALEA section 109(e)(3), Submission of Claims, reads: "Such [Cost Control] regulations shall require any telecommunications carrier that the Attorney General has agreed to pay for modifications pursuant to [section 109] *and that has installed or deployed such modification to submit to the Attorney General a claim for payment* * * *" (Emphasis added). It is unlikely that the Congress intended that carriers be able to submit claims for payment simply because a piece of equipment was commercially available. It is also unlikely that the Congress intended that the Attorney General agree to reimburse carriers for commercially available equipment sitting in their warehouses. Rather, it seems clear that the Congress intended that claims be submitted only for such equipment for which the CALEA solution was "operable and available for use," or "deployed." Therefore, no change to the definition of "installed or deployed" has been made.

2. Definition of "Replaced"

Some commenters requested that the FBI defined "replaced" as used in the phrase "replaced or significantly upgraded or otherwise undergoes major modification."[6] These commenters advocated defining "replaced" as meaning the installation of equipment, facilities or services which became commercially available after January 1, 1995 and which are not upgrades or modifications to equipment, facilities or services commercially available prior to January 1, 1995. However, the plain language of CALEA never addresses the issue of commercial availability with regard to grandfathered equipment; rather, CALEA repeatedly refers to the date of installation or deployment as the relevant date for reimbursement eligibility. Additionally, unlike the potentially subjective or ambiguous nature of the term "significant upgrade or major modification," the meaning of the term "replaced" is both clear and common. Therefore, the FBI does not intend to define this term.

[6] CALEA § 109(d).

3. Just Compensation

Some commenters asserted that an overly broad definition of "significant upgrade or major modification" would constitute a taking for which the carriers would be entitled to full compensation pursuant to the Just Compensation Clause of the Fifth Amendment of the Constitution of the United States. One commenter asserted that this was so regardless of whether Congress provides funding for CALEA cost reimbursement.

No set formula exists for identifying when Government regulatory action constitutes a "taking" under the Constitution; the Supreme Court has instead generally relied on an *ad hoc*, factual inquiry into the circumstances of each particular case. The Supreme court has, however, indicated that the following factors have particular significance: (1) The severity of the economic impact of the regulation on the claimant; (2) the extent to which the regulation has interfered with distinct investment-backed expectations; and (3) the character of the government action. See *Concrete Pipe and Products of California, Inc.* v. *Construction Laborers Pension Trust for So. California*, 508 U.S. 602, 113 S.Ct. 2264, 124 L.Ed. 2d 539 (1993); *Connolly* v. *Pension Benefit Guaranty Corp.*, 475 U.S. 211, 106 S.Ct. 1018, 89 L.Ed.2d 166 (1986); *see also Lucas* v. *South Carolina Coastal Commission*, 505 U.S. 1003, 112 St.Ct. 2886, 120 L.Ed.2d 798 (1992).

In response to the comments received, the FBI has analyzed these factors and has concluded that the proposed definition of "significant upgrade or major modification" does not amount to a compensable taking. First, the FBI does not believe that the economic impact of this definition on carriers will rise to the level of a taking requiring compensation. The proposed definition will not significantly impair the economically beneficial use of the carriers' property, and the value of such property will not be substantially reduced. If any such reduction does occur, CALEA section 109(b) provides a mechanism whereby carriers may petition the FCC for relief through a determination that CALEA compliance is not reasonably achievable. Moreover, it has been held that "mere diminution in the value of property, however serious, is insufficient to demonstrate a taking." *Concrete Pipe*, 508 U.S. at 645. Second, this definition, and the regulations of which it is a part, will not interfere with investment-backed expectations of the carriers. Carriers have cooperated with the execution of court-ordered electronic surveillance for some time now. Carriers could,

consequently, readily anticipate that such wiretapping would continue and that the mechanisms of such wiretapping would evolve as telecommunications technology advanced. These regulations do not expand law enforcement authority but merely maintain the ability of law enforcement to conduct court-ordered surveillance. Carriers had no reasonable expectation that they would not be required to continue to provide assistance to law enforcement. Finally, the character of the government action involved suggests that regulations do not involve a compensable taking. In carrying out CALEA, no law enforcement agency will physically invade any carriers' property or appropriate any carriers' assets for its own use. The FBI feels that the regulations of which this definition is a part substantially advance the Nation's legitimate interests in preserving public safety and national security. These interests would unquestionably be jeopardized without the ability to conduct court-ordered electronic surveillance. Such wiretaps are critical to saving lives and preventing and solving crimes. In sum, the FBI does not believe that the carriers are being forced to bear a burden "which, in all fairness and justice, should be borne by the public as a whole." *Armstrong* v. *United States*, 364 U.S. 40, 49, 80 S.Ct. 1563, 4 L.Ed.2d 1554 (1960).

4. FBI Authority To Define "Significant Upgrade or Major Modification"

Some commenters challenged the FBI's authority to define the term "significant upgrade or major modification," asserting that final authority rests with either the FCC or the courts. The FBI began this rulemaking proceeding regarding "significant upgrade or major modification" at the request of commenters on the proposed cost recovery rule. In fact, some of the same entities which requested in their comments on the proposed CALEA cost recovery rule that the FBI define "significant upgrade or major modification," are those who are now challenging the FBI's authority to do so.

There is no explicit language in CALEA placing the definition of "significant upgrade or major modification" under the FCC's authority.[7] In fact, in light of the FCC's greater technical expertise, the FBI has consulted on several occasions with the FCC regarding the definition of "significant upgrade or major modification." The FBI offered to defer to the FCC in this area; however, the FCC determined that the definition of "significant upgrade or major modification" falls within the FBI's CALEA implementation responsibilities, specifically with regard to reimbursement.

With regard to the courts, CALEA section 108 does place the final authority regarding this issue with the courts in any enforcement order proceeding. However, that should not preclude the FBI from defining this term so that carriers will know whether their equipment, facilities and services are grandfathered under CALEA section 109(d), whether they may be eligible for compensation under CALEA section 109(a), and whether they may need to petition the FCC under the provisions of CALEA section 109(b). Therefore, the FBI is proceeding with this rulemaking.

5. Potential Burden on Small Carriers

Two associations representing the interests of carriers qualifying as "small entities" for regulatory purposes sought assurances that the proposed definition of "significant upgrade or major modification" would take into consideration the potential burdens imposed upon small carriers. The FBI is cognizant of the needs of small carriers and has taken these needs into consideration during the development of the proposed definition. This issue is addressed at length in Section F, Initial Regulatory Flexibility Analysis, below.

6. The Telecommunications Act of 1996

Several commenters were concerned that upgrades and modifications required by the Telecommunications Act of 1996, as well as other federal and state mandates, be exempt from consideration as "significant upgrades or major modifications" under CALEA. The FBI is persuaded by these comments and has worked such an exemption into the proposed definition.

7. Availability of a CALEA Standard

Several commenters asserted that a pre-condition for the occurrence of a "significant upgrade or major modification" was the availability of an industry-developed CALEA standard. However, the plain language of CALEA states that the absence of a standard shall not "relieve a carrier, manufacturer, or telecommunications support services provider of the obligations imposed by sections 103 [Assistance Capability Requirements] or 106 [Cooperation of Equipment Manufacturers and Providers of Telecommunications Support Services], as applicable."[8] Therefore, the FBI does not accept this comment.

8. Availability of CALEA Compliant Technology

Several commenters asserted that a pre-condition for the occurrence of a "significant upgrade or major modification" was the availability of CALEA compliant technology. Carriers could not be expected to include the CALEA solution along with any "significant upgrade or major modification" if such a solution did not exist.

The FBI is cognizant of this issue and has taken steps to minimize the impact of the "significant upgrade or major modification" clause in these circumstances. To this end, the FBI has proposed the bipartite definition proposed above, which limits "significant upgrades or major modifications" prior to October 25, 1998 to "any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility, or service, that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute." Given that October 25, 1998 is the compliance date for CALEA capability, the FBI believes that this initial definition will give carriers the time they need to make appropriate business decisions about their "equipment" in light of CALEA's "significant upgrade or major modification" clause and will not penalize carriers for most upgrades or modifications made to their "equipment" while the CALEA solution is unavailable. However, carriers who made upgrades or modifications about which no argument can be made regarding their "significance" (e.g. changing from analogue to digital switching) will still be required to comply with CALEA at their own expense.

9. Definition of "Significant Upgrade"

Most commenters proposed a definition of "significant upgrade or major modification" similar to the one proposed by the United States Telephone Association (USTA):

> Significant upgrade or major modification includes only those upgrades or modifications which are generally available to the industry and installed/implemented in

[7] See, however, the amendments to the Communications Act of 1934 contained in Title III of CALEA, specifically 47 U.S.C. 229(a): "In general—the Commission shall prescribe such rules as are necessary to implement the requirements of the Communications Assistance for Law Enforcement Act."

[8] CALEA § 107(a)(3)(B).

order to be consistent with industry-developed standards and/or FCC technical requirements associated with implementation of CALEA. Such upgrades or modifications pertain only to facilities, services, functions, etc. that affect compliance with the capabilities [sic] requirements of CALEA and represent changes in the network architecture or changes that fundamentally alter the nature or type of the existing telecommunications equipment, facility, or service. Such term does not include upgrades and/or modifications to networks mandated by state or Federal law where CALEA compliant technology is not available.

As discussed above, the FBI has taken this proposed definition under consideration and has incorporated parts of it into the FBI's own proposed definition regarding upgrades and modifications made between January 1, 1995 and the CALEA capability compliance date of October 25, 1998. The FBI has also included *in toto* the proposed exemption for upgrades or modifications required by state and federal mandates. However, the FBI believes that this definition will not satisfy the intent of CALEA in the long term. Therefore, the FBI has broadened the definition for modifications occurring after October 25, 1998 to include any upgrade or modification which impedes law enforcement's ability to carry out lawfully authorized electronic surveillance. Such impediments are clearly "significant" and "major" in that they endanger public safety and prevent law enforcement from carrying out its mission. Therefore, the FBI can accept the commenters proposed definition only in part.

E. Applicable Administrative Procedures and Executive Orders

1. Unfunded Mandates

The FBI has examined this proposed rule in light of the Unfunded Mandates Reform Act of 1995 and has tentatively concluded that this proposed rule will not result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.

2. Executive Order 12866

The FBI examined this proposed rule in light of Executive Order 12866 and has found that it constitutes a significant regulatory action only under section 3(f)(4). In accordance with section 6 of Executive Order 12866, the FBI has submitted this proposed rule to the Office of Information and Regulatory Affairs, OMB, for review, and has met all of the requirements of this section.

3. Executive Order 12612

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

4. Executive Order 12988

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

5. Paperwork Reduction Act of 1995

This proposed rule contains no information collection requirements and is not, therefore, subject to the Paperwork Reduction Act of 1995.

F. Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act ("RFA"),[9] the FBI has prepared an Initial Regulatory Flexibility Analysis ("IRFA") of the expected significant economic impact on small entities of this proposed rule. Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above on the first page, in the heading. The FBI shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA) in accordance with section 603(a).[10]

1. Need for and Objectives of the Proposed Rules

This NPRM responds both to the legislative mandate contained in Section 109 of the Communications Assistance for Law Enforcement Act, Pub. L. No. 103–414, 108 Stat. 4279 (1994) (codified as amended in scattered sections of 18 U.S.C. and 47 U.S.C.) and to public comments received in response to the proposed CALEA Cost Recovery Rules published in the **Federal Register** on May 10, 1996 (61 FR 21396.

2. Legal Basis

The proposed action is authorized under the Communications Assistance for Law Enforcement Act, Pub. L. No. 103–414, 108 Stat. 4279 (1994) (codified as amended in scattered sections of 18 U.S.C. and 47 U.S.C.).

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

This proposed rule may have a significant economic impact on a substantial number of small telephone companies identified by the SBA. The FBI seeks comment on how small entities may be affected by the proposed definition of "significant upgrade or major modification."

The RFA generally defines "small entity" as having the same meaning as the term "small business," "small organization," and "small governmental jurisdiction" and the same meaning as the term "small business concern" under the Small Business Act, unless an agency has developed one or more definitions that are appropriate to its activities.[11] Under the Small Business Act, a "small business concern" is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[12] The SBA has defined small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have fewer than 1,500 employees.[13] This IRFA first discusses generally the total number of small telephone companies falling within both of those SIC categories. Then, the IRFA addresses the number of small businesses within the two subcategories, and attempts to refine further those estimates to correspond with the categories of telephone companies that are commonly used under the FCC's rules. It must be noted, however, that only small entities in operation on or

[9] U.S.C. 603.

[10] The Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.* has been amended by the Contract with America Advancement Act of 1996, Pub. L. No. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the "Small Business Regulatory Enforcement Fairness Act of 1996" (SBREFA).

[11] 5 U.S.C. 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. 632).Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies "unless an agency after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition in the **Federal Register.**"

[12] 15 U.S.C. 632. *See, e.g., Brown Transport Truckload, Inc. v. Southern Wipers,. Inc.*, 176 B.R 82(Bankr. N.D.Ga. 1994).

[13] 2 CFR 121.201.

before January 1 1995 are affected by this proposed rule.

Total Number of Telephone Companies (SIC 4813) Affected

This proposed rule may have a significant effect on a substantial number of the small telephone companies identified by SBA. The United States Bureau of the Census ("the Census Bureau") reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[14] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, PCS providers, covered SMR providers, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities because they are not "independently owned and operated."[15] For example, a PCS provider that is affiliated with an interexchange carrier having more than 1,500 employees would not meet the definition of a small business. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone companies that may be affected by this proposed rule.

Wireline Carriers and Service Providers

SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[16] According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing fewer than 1,500 persons.[17] All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities. Although it seems certain that some of these carriers are not independently owned and operated, the FBI is unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by this proposed rule.

Local Exchange Carriers.

Neither the FCC nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the Telecommunications Relay Service (TRS). According to the most recent data, 1,347 companies reported that they were engaged in the provision of local exchange services.[18] Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 1,347 small LECs that may be affected by this proposed rule.

Interexchange Carrier

Neither the FCC nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of IXCs nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with TRS. According to the most recent data, 130 companies reported that they were engaged in the provision of interexchange services.[19] Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate, with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 130 small entity IXCs that may be affected by this proposed rule.

Competitive Access Providers

Neither the FCC nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of CAPs nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the TRS. According to the most recent data, 57 companies reported that they were engaged in the provision of competitive access services.[20] Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 57 small entity CAPs that may be affected by this proposed rule.

Wireless (Radiotelephone) Carriers

SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992.[21] According to SBA's definition, a small business radiotelephone company is one employing fewer than 1,500 persons.[22] The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that

[14] United States Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) ("1992 Census").

[15] 15 U.S.C. § 632(a)(1).

[16] Census, *supra*, at Firm Size 1–123.

[17] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

[18] Federal Communications Commission, CCB, Industry Analysis Division. *Telecommunications Industry Revenue: TRS Fund Worksheet Data*, Tbl. 21 (Average Total Telecommunications Revenue Reported by Class of Carrier) (December, 1996) ("TRS Worksheet").

[19] TRS Worksheet.

[20] 13 CFR 121.201, SIC 4813.

[21] United States Department of Commerce, Bureau of the Census *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) ("1992 Census").

[22] 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4812.

might qualify as small entities if they are independently owned and operated. Although it seems certain that some of these carriers are not independently owned and operated, the FBI is unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 1,164 small entity radiotelephone companies that may be affected by this proposed rule.

Cellular and Mobile Service Carriers

In an effort to further refine the FBI's calculation of the number of radiotelephone carriers, Cellular Service Carriers and Mobile Service Carriers. Neither the FCC nor the SBA has developed a definition of small entities specifically applicable to Cellular Service Carriers and to Mobile Service Carriers. The closest applicable definition under SBA rules for both services is for telephone companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of Cellular Service Carriers and Mobile Service Carriers nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the TRS. According to the most recent data, 792 companies reported that they are engaged in the provision of cellular services and 138 companies reported that they are engaged in the provision of mobile services.[23] Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of Cellular Service Carriers and Mobile Service Carriers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 792 small entity Cellular Service Carriers and fewer than 138 small entity Mobile Service Carriers that might be affected by the actions and rules adopted in this NPRM.

Resellers

Neither the FCC nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which the FBI is aware appears to be the data that the FCC collects annually in connection with the TRS. According to the most recent data, 260 companies reported that they were engaged in the resale of telephone services.[24] Although it seems certain that some of these carriers are not independently owned and operated, have more than 1,500 employees, or were not in operation prior to January 1, 1995, the FBI is unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, the FBI estimates that there are fewer than 260 small entity resellers that may be affected by this proposed rule.

4. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

This proposed rule imposes no reporting or recordkeeping requirements on small entities. Additionally, this proposed rule does not impose any other direct compliance requirements on small entities. However, this proposed rule does, by defining "significant upgrade or major modification," clarify the threshold at which telecommunications equipment, facilities and services installed or deployed on or before January 1, 1995 cease to be grandfathered under CALEA section 109. Should a carrier make a "significant upgrade or major modification" to such grandfathered equipment, facility, or service, the carrier must then bring the equipment, facility or service in question into compliance with the assistance capability requirements of CALEA section 103 at the carrier's expense.

5. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

The development of the proposed definition of "significant upgrade or major modification" is discussed at length in Section C, Definition Development, of this NPRM, *supra*. The FBI considered and rejected as impractical both technical and accounting definitions. Having determined that CALEA's intent was best served by a definition focusing on public safety, the FBI then modified its definition to incorporate industry's suggestions submitted in response to the ANPRM.

Because this document proposes a definition which must be as clear and as finite as possible, the FBI has tentatively concluded that it is not feasible to make special accommodations for small entities in this proceeding. The FBI arrived at this tentative conclusion knowing that CALEA itself makes ample provisions for the protection of small entities which make "significant upgrade[s] or major modification[s]" by allowing these carriers to petition the FCC for relief under CALEA section 109(b).

The FBI welcomes and encourages comments from concerned small entities on this issue.

6. Federal Rules That May Overlap, Duplicate, or Conflict With the Proposed Rules

The FBI is not aware of any overlapping, duplicating, or conflicting Federal Rules to the Federal Rule proposed in this document.

G. Electronic Submission of Comments

While printed comments are welcome, commenters are encouraged to submit their responses on electronic media. Electronic documents must be in WordPerfect 6.1 (or earlier version) or Microsoft Word 6.0 (or earlier) format. Comments must be the only file on the disk. In addition, all electronic submissions must be accompanied by a printed sheet listing the name, company or organization name, address, and telephone number of an individual who can replace the disk should it be damaged in transit. Comments under 10 pages in length can be faxed to the Telecommunications Contracts and Audit Unit, Attention: CALEA FR Representative, fax number (703) 814–4730.

[47 U.S.C. 1001–1010; 28 CFR 0.85(o)]

List of Subjects in 28 CFR Part 100

Accounting, Law enforcement, Reporting and recordkeeping requirements, Telecommunications, Wiretapping and electronic surveillance.

For the reasons set out in the preamble, 28 CFR part 100 is proposed to be amended as set forth below:

PART 100—COST RECOVERY REGULATIONS, COMMUNICATIONS ASSISTANCE FOR LAW ENFORCEMENT ACT OF 1994

1. The authority citation for 28 CFR part 100 continues to read as follows:

Authority: 47 U.S.C. 1001–1010; 28 CFR 0.85(o).

2. Section 100.22 is added to read as follows:

[23] TRS Worksheet, at Tbl. 1 (Number of Carriers Reporting by Type of Carrier and Type of Revenue).

[24] *Id.*

§ 100.22 Definition of "significant upgrade or major modification."

(a) For equipment, facilities or services for which an upgrade or modification has been completed after January 1, 1995 and on or before October 25, 1998, the term "significant upgrade or major modification" means any fundamental or substantial change in the network architecture or any change that fundamentally alters the nature or type of the existing telecommunications equipment, facility or service, that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal or State statute;

(b) For equipment, facilities or services for which an upgrade or modification is completed after October 25, 1998, the term "significant upgrade or major modification" means any change, whether through addition or other modification, to any equipment, facility or service that impedes law enforcement's ability to conduct lawfully authorized electronic surveillance, unless such change is mandated by a Federal statute.

Dated: April 13, 1998.

Louis Freeh,

Director, Federal Bureau of Investigation, Department of Justice.

[FR Doc. 98–10928 Filed 4–27–98; 8:45 am]

BILLING CODE 4410–02–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI76–01–7305; FRL–6004–7]

Approval and Promulgation of State Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (USEPA) is proposing to disapprove a site-specific volatile organic compound (VOC) reasonably available control technology (RACT) 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 emission limits applicable to miscellaneous metal coating operations.

DATES: Comments on this proposed rule must be received before May 28, 1998.

ADDRESSES: Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 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 February 21, 1997, WDNR submitted a site-specific VOC RACT SIP revision for the Amron Corporation facility located at 525 Progress Avenue in Waukesha. Amron manufactures several different kinds of projectiles for a United States Department of Defense (DOD) contractor. Amron's work is exclusively DOD contracts.

The Amron facility is located in the Milwaukee severe nonattainment area and is subject to rule NR 422.15 of the Wisconsin Administrative code, which regulates miscellaneous metal coating operations. NR 422.15 has been approved by the United States Environmental Protection Agency (USEPA) as meeting the RACT requirements of the Clean Air Act (Act).

Specifically, under NR 422.15(2)(a) and (b), when coating miscellaneous metal parts or products using a baked or specially cured coating technology, Amron may not exceed 4.3 pounds of VOC per gallon of coating as applied for clear coats and 3.5 pounds of VOC per gallon of coating as applied for extreme performance coatings. Under NR 422.15(3)(c), when coating miscellaneous metal parts or products using an air dried coating technology, Amron may not exceed 3.5 pounds of VOC per gallon for clear coatings.

II. Facility and Process Description

As noted above, Amron manufactures several different kinds of projectiles for the DOD. Process P01 at Amron is the paint operation which encompasses five different lines for coating numerous types and shapes of military items, including the 25mm cartridge case, the M430/M918TP, the M67/M69, the M56A4, and the M75 and M73 rockets. As a contractor to the DOD, Amron is required to use certain paints which are specified by the military. Each coating was specified by DOD for its unique characteristics.

Exterior projectile coatings must protect against corrosion, provide color identification and not chip, flake or rub off. Exterior cartridge case coatings must protect against corrosion, provide a low co-efficient of friction surface for feeding and extraction, as well as not chip or rub off. Interior and exterior cartridge or projectile coatings must protect against corrosion, provide a friction-free surface between the steel body and high explosives during loading, and be chemically compatible with the high explosives.

Below is a table listing the coatings used by Amron for the various projectiles.

Product	Description	Type	Military specification	VOC lb/gal
25MM	Olive Drab	Polyamide-Amide Teflon	12013517	6.4
M430/M918	Red Oxide Primer	Alkyd	MIL–P–22332	4.52
	Olive Drab Lacquer	Cellulose Nitrate	MIL–L–11195	4.94
	Blue Lacquer	Cellulose Nitrate	MIL–L–11195	4.94
M67	Red Oxide Primer	Alkyd	MIL–P–22332	4.52
	Off-White Primer	Epoxy	MIL–P–53022	4.229
	Green Zenthane	Polyurethane	MIL–C–53039	3.491
M69	Blue Lacquer	Cellulose Nitrate	MIL–L–11195	(1)
M56A4	Asphalt Type I	Asphalt	MIL–C–450C	3.744
	Yellow Lacquer	Cellulose Nitrate	MIL–L–11195	4.89
	Red Lacquer	Cellulose Nitrate	MIL–L–11195	5.0
M73	Olive Drab Lacquer	Cellulose Nitrate	MIL–L–11195	4.94
	Yellow Lacquer	Cellulose Nitrate	MIL–L–11195	4.89

Product	Description	Type	Military specification	VOC lb/gal
M75	Clear Lacquer & Blue Tint	Cellulose Nitrate	MIL–L–10287	5.07
	Blue Lacquer	Cellulose Nitrate	MIL–L–11195	(1)
	Brown Lacquer	Cellulose Nitrate	MIL–L–11195	4.92

[1] Unknown.

III. RACT Evaluation

Amron hired a consultant to take bids for a catalytic oxidation unit, a regenerative oxidation unit and a regenerative catalytic oxidation unit. The cost ranged from $7,146 to $9,060 per ton to control one coating line and $9,909 to $18,657 per ton to control the five coating lines. USEPA agrees that the cost of add-on controls seems to be economically unreasonable.

Amron has written letters to its prime DOD contractor seeking permissible alternate coatings, but has received no reply. Therefore, Amron contends that it needs an exemption from RACT requirements for these painting operations. The variance submitted states that the VOC content of the coatings used for a DOD contract shall not exceed the DOD specification for that coating.

USEPA has reviewed the military specifications provided by Amron and has independently investigated the availability of alternate coatings. The coatings (above) used by Amron which are required to meet MIL–L–11195 (actually MIL–L–11195D) range from 4.89 to 5.0 pounds of VOC per gallon of coating. This military standard was replaced by MIL–E–11195E which specifies a VOC content of 3.5 pounds per gallon and would comply with RACT requirements. Amron should seek to modify its contract to allow for the use of coatings complying with the updated specification.

The off-white primer covered by specification MIL–P–53022 is listed as having a VOC content of 4.229 pounds per gallon. MIL–P–53022, however, requires coatings to meet a VOC content of 3.5 pounds of VOC per gallon. Amron has not explained this discrepancy. The clear lacquer and blue tint covered by MIL–L–10287 does not appear on the M73 drawing provided by Amron. The company should indicate where this coating is required so it will be possible to verify that no alternate specifications are allowed. Finally, for the polyamide-amide Teflon coating covered by specification 12013517, the red oxide primer covered by MIL–P–22332, and the asphalt coating covered by MIL–C–450C, as well as clear lacquer and blue tint coating covered by MIL–L–10287, Amron should, at a minimum, demonstrate that it has investigated other vendors and is using the lowest VOC content coating which meets the applicable military specification.

Furthermore, the variance is unacceptable because it provides Amron with no fixed applicable limits, and in most cases, no applicable limits at all. Granting the variance would give Amron no incentive to seek the lowest VOC content coating available. Also, while "usage records" are required, no time frame, e.g. daily, is specified.

For the reasons discussed above, USEPA is proposing to disapprove this SIP revision.

IV. 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 Order 12866

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

C. Regulatory Flexibility

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

USEPA'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 its State enforceability. Moreover, USEPA's disapproval of the submittal does not impose any new Federal requirements. Therefore, USEPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities, because it does not remove existing requirements or impose any new Federal requirements.

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, USEPA 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 USEPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

USEPA has determined that the disapproval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal 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). USEPA 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, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

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

Dated: April 15, 1998.

David A. Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–11278 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 69 and 80

[FRL–5999–6]

State of Alaska Petition for Exemption From Diesel Fuel Sulfur Requirement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On March 14, 1994, EPA granted the State of Alaska a waiver from the requirements of EPA's low-sulfur diesel fuel program for motor vehicles, permanently exempting Alaska's remote areas and providing a temporary exemption for areas of Alaska served by the Federal Aid Highway System. The exemption applied to certain requirements in section 211(i) and (g) of the Clean Air Act, as implemented in EPA's regulations. On December 12, 1995, the Governor of Alaska petitioned EPA to permanently exempt the areas covered by the temporary exemption. In this document, EPA is proposing to grant Alaska's petition for a permanent exemption for areas of Alaska served by the Federal Aid Highway System.

This proposed rulemaking, if finalized, is not expected to have a significant impact on the ability of Alaska's communities to attain the National Ambient Air Quality Standards for carbon monoxide and particulate matter, due to the limited contribution of emissions from diesel motor vehicles in those areas and the sulfur level currently found in motor vehicle diesel fuel used in Alaska. However, if circumstances change such that the exemption is no longer appropriate under Section 325 based on consideration of the factors relevant under that section, EPA could withdraw this exemption in the future after public notice and comment.

DATES: EPA will conduct a public hearing on today's proposal May 21, 1998, if one is requested by May 12, 1998. If a hearing is held, comments on this proposal must be submitted on or before June 22, 1998. If no hearing is held, comments must be submitted on or before May 28, 1998. For additional information on the public hearing see Supplementary Information.

ADDRESSES: Comments should be submitted in duplicate to Mr. Richard Babst, Environmental Engineer, Fuels Implementation Group, Fuels and Energy Division (6406–J), 401 M Street S.W., Washington, D.C. 20460.

Public Hearing: A public hearing, if held, will be at the Anchorage Federal Building, room 135, in Anchorage, Alaska.

Docket: Copies of information relevant to this petition are available for inspection in public docket A–96–26 at the Air Docket of the EPA, first floor, Waterside Mall, room M–1500, 401 M Street S.W., Washington, D.C. 20460, (202) 260–7548, between the hours of 8:00 a.m. to 5:30 p.m. Monday through Friday. A duplicate public docket has been established at EPA Alaska Operations Office—Anchorage, Federal Building, Room 537, 222 W. Seventh Avenue, #19, Anchorage, AK 99513–7588, and is available from 8:00 a.m. to 5:00 p.m. Monday through Friday. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Babst, Environmental Engineer, Fuels Implementation Group, Fuels and Energy Division (6406–J), 401 M Street S.W., Washington, D.C. 20460, (202) 564–9473.

SUPPLEMENTARY INFORMATION:

Public Hearing Information

Anyone wishing to testify at the public hearing scheduled for May 21, 1998, should notify Richard Babst by telephone at (202) 564–9473, by fax at (202) 565–2085, or by Internet message at babst.richard@epa.gov. If the above contact person fails to receive any requests for testifying on this proposal by May 12, 1998, the hearing will be canceled without further notification. Persons interested in determining if the hearing has been canceled should contact the person named above after May 12, 1998.

The public hearing, if held, will begin at 9:00 a.m and continue until all interested parties have had an opportunity to testify. A sign-up sheet will be available at a registration table the morning of the hearing for scheduling testimony for those who have not previously notified the contact person listed above. Testimonies will be scheduled on a first come, first serve basis. EPA suggests that approximately 25 to 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 advance copy of any statement or material to be presented at the hearing in order to give EPA staff adequate time to review the material before the hearing. Such advance copies should be submitted to the contact person listed above.

The hearing will be conducted informally and technical rules of evidence will not apply. Because a public hearing is designed to give interested parties an opportunity to participate in the proceeding, there are no adversary parties as such. Statements by participants will not be subject to cross examination by other participants. A written transcript of the hearing will be placed in the public docket for review. Anyone desiring to purchase a copy of the transcript should make individual arrangements with the court reporter recording the proceeding. The EPA Presiding Officer is authorized to strike from the record statements which he deems irrelevant or repetitious and to impose reasonable limits on the duration of the statement of any witness. EPA asks that persons who testify attempt to limit their testimony to ten minutes, if possible.

The Administrator will base her final decision with regard to Alaska's petition for exemption from the diesel fuel sulfur content requirement on the record of the public hearing, if held, and on any other relevant written submissions and other pertinent information. This information will be available for public inspection at the EPA Air Docket, Docket No. A–96–26 (see **ADDRESSES**). For more information on public participation, see **SUPPLEMENTARY INFORMATION:** VII. Public Participation.

Table of Contents

I. Regulated Entities

Entities potentially regulated by this action are refiners, marketers, distributors, retailers and wholesale purchaser-consumers of diesel fuel for

use in the state of Alaska. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Petroleum distributors, marketers, retailers (service station owners and operators), wholesale purchaser consumers (fleet managers who operate a refueling facility to refuel motor vehicles).
Individuals	Any owner or operator of a diesel motor vehicle.
Federal Government	Federal facilities, including military bases which operate a refueling facility to refuel motor vehicles.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the criteria contained in §§ 80.29 and 80.30 of title 40 of the Code of Federal Regulations as modified by today's action. If you have questions regarding the applicability of this action to a particular entity, consult one of the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Electronic Copies of Rulemaking Documents

The preamble and regulatory language are also available electronically from the EPA Internet Web site. This service is free of charge, except for any cost you already incur for Internet connectivity. An electronic version is made available on the day of publication on the primary Web site listed below. The EPA Office of Mobile Sources also publishes these notices on the secondary Web site listed below.

http://www.epa.gov/docs/fedrgstr/EPA-AIR/(either select desired date or use Search feature)

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.

III. Background

Section 211(i)(1) of the Act prohibits the manufacture, sale, supply, offering for sale or supply, dispensing, transport, or introduction into commerce of motor vehicle diesel fuel which contains a concentration of sulfur in excess of 0.05 percent by weight, or which fails to meet a cetane index minimum of 40 beginning October 1, 1993. Section 211(i)(2) requires the Administrator to promulgate regulations to implement and enforce the requirements of paragraph (1), and authorizes the Administrator to require that diesel fuel not intended for motor vehicles be dyed in order to segregate that fuel from motor vehicle diesel fuel. Section 211(i)(4) provides that the States of Alaska and Hawaii may seek an exemption from the requirements of subsection 211(i) in the same manner as provided in section 325 [1] of the Act, and requires the Administrator to take final action on any petition filed under this subsection, which seeks exemption from the requirements of section 211(i), within 12 months of the date of such petition.

Section 325 of the Act provides that upon application by the Governor of Guam, American Samoa, the Virgin Islands, or the Commonwealth of the Northern Mariana Islands, the Administrator may exempt any person or source, or class of persons or sources, in such territory from any requirement of the Act, with some specific exceptions. Such exemption may be granted if the Administrator finds that compliance with such requirement is not feasible or is unreasonable due to unique geographical, meteorological, or economic factors of such territory, or such other local factors as the Administrator deems significant.

IV. Petition for Exemption

On February 12, 1993, the Honorable Walter J. Hickel, then Governor of the State of Alaska, submitted a petition to exempt motor vehicle diesel fuel in Alaska from subsections (1) and (2) of section 211(i), except the minimum cetane index requirement of 40. Subsection (1) prohibits motor vehicle diesel fuel from having a sulfur concentration greater than 0.05 percent by weight, or failing to meet a minimum cetane index of 40. Subsection (2) requires the Administrator to promulgate regulations to implement and enforce the requirements of subsection (1), and authorizes the Administrator to require that diesel fuel not intended for motor vehicles be dyed in order to segregate that diesel fuel from motor vehicle diesel fuel. The petition requested that the Environmental Protection Agency (EPA) temporarily exempt motor vehicle diesel fuel manufactured for sale, sold, supplied, or transported within the Federal Aid Highway System from meeting the sulfur content requirement specified in section 211(i) until October 1, 1996. The petition also requested a permanent exemption from such requirements for those areas of Alaska not reachable by the Federal Aid Highway System. The petition was based on geographical, meteorological, air quality, and economic factors unique to the State of Alaska.

The petition was granted on March 22, 1994 (59 FR 13610) and applied to all persons in Alaska subject to section 211(i) and related provisions in section 211(g) of the Act and EPA's low-sulfur requirement for motor vehicle diesel fuel in 40 CFR 80.29. Persons in communities served by the Federal Aid Highway System were exempt from compliance with the diesel fuel sulfur content requirement until October 1, 1996. Persons in communities that are not served by the Federal Aid Highway System were permanently exempt from compliance with the diesel fuel sulfur content requirement. Both the permanent and temporary exemptions apply to all persons who manufacture, sell, supply, offer for sale or supply, dispense, transport, or introduce into commerce, in the State of Alaska, motor vehicle diesel fuel. Alaska's exemptions do not apply to the minimum cetane requirement for motor vehicle diesel fuel.

On December 12, 1995, the Honorable Governor Tony Knowles, Governor of the State of Alaska, petitioned the Administrator for a permanent exemption for all areas of the state

[1] Section 211(i)(4) mistakenly refers to exemptions under section 324 of the Act ("Vapor Recovery for Small Business Marketers of Petroleum Products"). The proper reference is to section 325, and Congress clearly intended to refer to section 325, as shown by the language used in section 211(i)(4), and the United States Code citation used in section 806 of the Clean Air Act Amendments of 1990, Public Law No. 101–549. Section 806 of the Amendments, which added paragraph (i) to section 211 of the Act, used 42 U.S.C. 7625–1 as the United States Code designation for section 324. This is the proper designation for section 325 of the Act. Also see 136 Cong. Rec. S17236 (daily ed. October 26, 1990) (statement of Sen. Murkowski).

served by the Federal Aid Highway System, that is, those areas covered only by the temporary exemption. On August 19, 1996, EPA extended the temporary exemption until October 1, 1996 (61 FR 42812), to give ample time for the agency to consider comments to that petition that were subsequently submitted. Today's proposed decision addresses EPA's final action on the petition submitted on December 12, 1995. EPA proposes to grant the petition for a permanent exemption for all areas of the state served by the Federal Aid Highway System. This proposed permanent exemption, when combined with the previously granted permanent exemption for all areas of the state not served by the Federal Aid Highway System, would effectively provide the entire state of Alaska a permanent exemption. While this exemption would be permanent, EPA would reserve the right to withdraw it in the future after public notice and comment if circumstances change such that the exemption is no longer appropriate under section 325 based on consideration of the factors relevant under that section.

The following subsections summarize the state's support for the exemption as provided for in the petition and rationale for the agency's proposed rule to grant the exemption. Comments received by the agency, subsequent submittals by Alaska, and additional rationale for the agency's rule to grant the permanent exemption are provided in section V.

A. Geography and Location of the State of Alaska

Alaska is about one-fifth as large as the combined area of the lower 48-states. Because of its extreme northern location, rugged terrain and sparse population, Alaska relies on barges to deliver a large percentage of its petroleum products. No other state relies on this type of delivery system to the extent Alaska does.

Only 35 percent of Alaska's communities are served by the Federal Aid Highway System, which is a combination of road and marine highways. The remaining 65 percent of Alaska's communities are served by barge lines and are referred to as "off-highway" or "remote" communities. Although barge lines can directly access some off-highway communities, those communities that are not located on a navigable waterway are served by a two-stage delivery system: over water by barge line and then over land to reach the community.

Because of the State's high latitude, it experiences seasonal extremes in the amount of daily sunlight and temperature, which in turn affects the period of time during which construction can occur, and, ultimately, the cost of construction in Alaska.

According to the petition, Alaska's extreme northern location places it in a unique position to fuel transcontinental cargo flights between Europe, Asia, and North America. Roughly 75 percent of all air transit freight between Europe and Asia lands in Anchorage, as does that between Asia and the United States. The result is a large market for jet fuel (Jet-A kerosene) produced by local refiners, which decreases the relative importance of highway diesel fuel to these refiners. Based on State tax revenue receipts and estimates by Alaska's refiners, diesel fuel consumption for highway use represents roughly five percent of total Alaska distillate fuel consumption.[2]

B. Climate, Meteorology and Air Quality

Alaska's climate is colder than that of the other 49 states. The extremely low temperatures experienced in Alaska during the winter imposes a more severe fuel specification requirement for diesel fuel in Alaska than in the rest of the country. This specification, known as a "cloud point" specification[3] significantly affects vehicle start-up and other engine operations. Alaska has the most severe cloud point specification for diesel fuel in the U.S. at −56°F. Because Alaska experiences extremely low temperatures in comparison to the other 49 states, and the cloud point specifications for diesel fuel in the lower 49 states are not as severe, most diesel fuel used in Alaska is produced by refiners located in Alaska. Jet-A kerosene meets the same cloud point specification as No. 1 diesel fuel (which is marketed primarily during the winter in Alaska, as opposed to No. 2 diesel fuel which is marketed primarily in the summer) and is commonly mixed with or used as a substitute for No. 1 diesel fuel. However, because Jet-A kerosene can have a sulfur content as high as 0.3 percent, the motor vehicle diesel fuel sulfur requirement of 0.05 percent would generally prohibit using Jet-A kerosene from being used as a fuel for motor vehicles.

Ice formation on the navigable waters during the winter months restricts fuel delivery to off-highway areas served by barge lines. Therefore, fuel is generally only delivered to these areas between the months of May and October. This further restricts the ability of fuel distributors in Alaska to supply multiple grades of petroleum products to these communities.

The only violations of national ambient air quality standards in Alaska have been for carbon monoxide (CO) and particulate matter (PM_{10}). CO violations have only been recorded in the State's two largest communities: Anchorage and Fairbanks. PM_{10} violations have only been recorded in two rural communities, Mendenhall Valley of Juneau and Eagle River in Anchorage. The most recent PM_{10} inventories for these two communities show that these violations are largely the result of fugitive dust from paved and unpaved roads, and that diesel motor vehicles are responsible for less than one percent of the overall PM_{10} being emitted within the borders of each of these areas[4]. Moreover, Eagle River has not had a violation of the PM_{10} standard since 1986. Mendenhall Valley has initiated efforts for road paving to be implemented to control road dust. The sulfur content of diesel fuel is not expected to have a significant impact on ambient PM_{10} or CO levels in any of these areas because of the minimal contribution by diesel motor vehicles to PM_{10} in these areas and the insignificant

[2] EPA independently verified these statements and estimates based on statistics from the Federal Highway Administration and the Department of Energy. These statistics show that the proportion of jet fuel consumption compared to total distillate consumption is approximately 65 percent for Alaska, compared to approximately 26 percent for the United States. The per-capita consumption of jet fuel is approximately 26.6 barrels per year for Alaska, compared to approximately 2.1 barrels per year for the United States. The proportion of diesel fuel consumption for highway use compared to total distillate consumption is approximately three percent for Alaska, compared to approximately 29 percent for the United States. The per-capita consumption of diesel fuel for highway use is approximately 1.2 barrels per year for Alaska, compared to approximately 2.3 barrels per year for the United States.

[3] The cloud point defines the temperature at which cloud or haze or wax crystals appears in the fuel. The purpose of the cloud point specification is to ensure a minimum temperature above which fuel lines and other engine parts are not plugged by solids that form in the fuel. This specification is designated by the American Society for Testing and Materials (ASTM) in its "Standard Specification for D975–96 Diesel Fuel Oils", and varies by area of the country and by month of the year based on historical temperature records. Alaska has the most stringent cloud point specification in the United States. For example in January, Alaska's cloud point specification is −56°F, −26°F, and −2°F for the northern (above 62° latitude), southern (below 62° latitude), and Aleutian Islands plus southeastern coast region, respectively. In contrast, the most stringent cloud point specification in January in the lower-48 states is −29°F for Minnesota. For the State of Washington, from which some imported distillate is imported into Alaska, the January cloud point specification is +19.4°F and 0°F for the western and eastern parts of the State, respectively.

[4] "PM_{10} Emission Inventories for the Mendenhall Valley and Eagle River Areas," prepared for the U.S. Environmental Protection Agency, Region X, by Engineering-Science, February 1988.

effect of diesel fuel sulfur content on CO emissions.

Finally, EPA recognizes that the primary purpose of reducing the sulfur content of motor vehicle diesel fuel is to reduce vehicle particulate emissions. Additional benefits cited in the final rule (55 FR 34120, August 21, 1990) include a reduction in sulfur dioxide (SO_2) emissions and the ability to use exhaust after-treatment devices on diesel fueled vehicles, which would result in some reduction of HC and CO exhaust emissions. The use of high-sulfur diesel fuel may cause plugging or increased particulate sulfate emissions in diesel vehicles equipped with trap systems or oxidation catalysts, and could impair the ability of oxidation catalysts to reduce HC and CO exhaust emissions. However, any increase in sulfate particulate emissions would likely have an insignificant effect on ambient PM_{10} levels in Alaska since current diesel motor vehicle contributions to PM_{10} emissions are minimal. Also, the lower sulfur requirement for motor vehicle diesel fuel will have no impact on the attainment prospects of Fairbanks and Anchorage with respect to CO, since reducing sulfur content has no direct affect on CO emissions. Since Alaska is in attainment with the ozone and SO_2 national ambient air quality standards, there is currently no concern for reducing HC or SO_2 emissions.

The Agency recognizes that granting this exemption means Alaska will forego the potential benefits to its air quality resulting from the use of low-sulfur diesel fuel. However, EPA believes that the potential benefits to Alaska's air quality are minimal and are far outweighed by the increased costs resulting from factors unique to Alaska to communities served by the Federal Aid Highway System.

C. Economic Factors

In complying with the section 211(i) sulfur requirement, refiners have the option to invest in the process modifications necessary to produce low-sulfur diesel fuel for use in motor vehicles, or not invest in the process modifications and only supply diesel fuel for off-highway purposes (e.g., heating, generation of electricity, non-road vehicles). Most of Alaska's refiners indicated that local refineries would choose to exit the market for highway diesel fuel if an exemption from the low-sulfur requirement is not granted. This is because of limited refining capabilities, the small size of the market for highway diesel fuel in Alaska, and the costs that would be incurred to produce low-sulfur diesel fuel.

Demand for Jet-A kerosene, which is also sold as No. 1 diesel fuel because it meets Alaska's winter cloud point specification, accounts for about half of Alaska's distillate consumption and dominates refiner planning. A survey of the refiners in Alaska, conducted by the State, revealed that it would cost over $100,000,000 in construction and process modifications to refine Alaska North Slope (ANS) crude into diesel fuel that would meet the 0.05 percent sulfur requirement to meet the demand for highway diesel fuel. Among the reasons for the high cost include the construction costs in Alaska, which are 25 to 65 percent higher than costs in the lower 48 states, and the cost of modifying the fuel production process itself. The petition states that because there is such a small demand for highway diesel fuel in Alaska, the costs that would be incurred to comply with section 211(i)'s sulfur requirement are excessive in light of the expected benefits. Without an exemption from having to meet this requirement, most refiners would choose to exit the market for highway diesel fuel.

Whether low-sulfur diesel fuel is produced in Alaska or imported from the lower-48 states or Canada, there remains the problem of segregating the two fuels for transport to communities along the FAHS accessible only by navigable waterways and subsequent storage of the fuels in those communities. Fuel is delivered to these communities only between the months of May and October due to ice formation which blocks waterways leading to these communities for much of the remainder of the year. The fuel supplied to these communities during the summer months must last through the winter and spring months until resupply can occur. Additionally, the existing fuel storage facilities limit the number of fuel types that can be stored for use in these communities. The cost of constructing separate storage facilities and providing separate tanks for transport of low-sulfur diesel fuel for motor vehicles could be significant. This is largely due to the high cost of construction in Alaska relative to the lower 48 states, and the constraints inherent in distributing fuel in Alaska. One alternative to constructing separate storage facilities is to supply only low-sulfur diesel fuel to these communities. However, the result would require use of the higher cost, low-sulfur diesel fuel for all diesel fuel needs. This would greatly increase the already high cost of living in these communities, since a large percentage of distillate consumption in these communities is for off-highway uses, such as operating diesel powered electrical generators.

D. Environmental Factors

Information provided to EPA by the State of Alaska indicates that refiners supply and distribute standard diesel fuel in the summer which has a sulfur content of approximately 0.3 percent by weight, and supply and distribute Jet-A kerosene in the winter as an Arctic-grade diesel, which has a sulfur content between 0.065 and 0.11 percent by weight from Alaskan refiners, and 0.03 percent by weight from one refiner in the lower-48 states. Thus, the reported level of sulfur in motor vehicle diesel fuel used in Alaska is below the current ASTM sulfur specification which allows up to 0.5 percent by weight. Therefore, in general, the impact of not requiring the low-sulfur motor vehicle diesel fuel program in Alaska is not as significant as it would be if the current fuel approached the ASTM allowable sulfur content level.

Although the State's largest communities, Fairbanks and Anchorage, are CO nonattainment areas, granting this exemption is not expected to have any significant impact on ambient CO levels because the sulfur content in diesel fuel does not significantly affect CO emissions. Two rural communities are designated nonattainment areas with respect to particulate matter (PM_{10}); however, diesel motor vehicle exhaust is responsible for less than one percent of the overall PM_{10} being emitted within the borders of these two areas where fugitive dust is reported to be the most significant problem. Thus, EPA believes that granting a permanent exemption to communities served by the Federal Aid Highway System will not have a significant impact on the ability of any of these communities to meet the current national ambient air quality standards.

V. Comments Received and Other Issues

This section addresses issues and comments that EPA needed more time to consider at the time of the August 19, 1996 extension of the temporary exemption for areas served by the Federal Aid Highway System.

A. Availability of Arctic-Grade, Low-Sulfur Diesel Fuel From Out-of-State Refiners

In a letter to the Alaska Department of Environmental Conservation of July 20, 1995, the Clean Air Coalition suggested that importing low-sulfur diesel fuel is a low cost option to comply with the low-sulfur highway diesel fuel requirement, since highway diesel fuel

is such a small part of the diesel fuel market in Alaska. It also noted that Southeast Alaska already imports low-sulfur diesel fuel from Puget Sound.

Although the 1995 staff report from the Low-Sulfur Diesel Task Force agreed that some low-sulfur diesel fuel is being imported to Southeast Alaska, generally from the Puget Sound area, an October 13, 1997 letter to EPA from the Alaska Department of Environmental Conservation, indicated that much of this "low-sulfur" diesel fuel may not comply with the Federal sulfur requirements for motor vehicle diesel fuel. Much of the "low-sulfur" fuel being imported is, in fact, downgraded Jet-A kerosene. The letter explains that in Southeast Alaska, jet fuel is a significant portion of the distillate market, but tank storage is limited. Because of this storage limitation and the very specific requirements for jet fuel, two of the three major distributors surveyed by the Alaska Department of Environmental Conservation purchase only Jet-A kerosene to supply all their customers for aviation and other uses, including motor vehicles. But even if some diesel fuel being imported to Southeast Alaska is actually low-sulfur motor vehicle fuel rather than Jet-A kerosene, it would not be arctic grade. In Southeast Alaska, the climate is mild enough to use the same fuel that is refined for the Seattle area. Consequently, the fuel being imported into Southeast Alaska either does not meet the Federal sulfur requirements for motor vehicles, or is not arctic grade, or both.

The Low-Sulfur Diesel Task Force also investigated the potential for importing low-sulfur motor vehicle diesel fuel from British Columbia, which has required low-sulfur diesel fuel as of April 15, 1995.[5] The task force concluded that Canada does not appear to be a significant source of low-sulfur highway diesel fuel to Alaska. In support of this contention, Alaska's December 12, 1995 Petition for Exemption stated that the British Columbia Ministry of Environment reported supplies of low-sulfur diesel in British Columbia "will remain tight". The Petition also stated that, based on discussions with Alaska refiners, "Canadian fuel does not seem to be available for Alaska", and one Alaska refiner reported that diesel fuel "is sold from Alaska into the Yukon Territory and northern British Columbia." The petition concludes that "sufficient Canadian fuel is not available to meet Alaska's diesel fuel needs for an arctic-grade low-sulfur diesel fuel."

EPA believes, based on the information provided, that adequate supplies of arctic-grade low-sulfur diesel fuel are not likely to be available for import into Alaska. Even if U.S. refiners in the lower-48 states wanted to enter this market, they would have to confront the similar problem that would be encountered by the Alaskan refiners of changing or modifying the refineries to produce low-sulfur arctic-grade motor vehicle diesel fuel, or Jet-A kerosene that meets the Federal motor vehicle sulfur requirement. The Alaskan refiners, which produce significant amounts of Jet-A kerosene, apparently have already concluded that the small highway diesel market in Alaska is too small for such changes and modifications to be economical. Economic feasibility directly relates to availability, since EPA does not have authority to require refiners to enter or remain in the motor vehicle diesel fuel market in Alaska. Finally, Canada is not a likely source of imports, because its refiners apparently do not have the capacity to export low-sulfur diesel fuel to Alaska.

B. Cost of Importing Low-Sulfur Diesel Fuel

In letters to the Alaska Department of Environmental Conservation of July, 1995 and October 30, 1995, the Clean Air Coalition suggested that Alaskan refineries and fuel distributors have not documented that there will be any increase to the consumer in complying with the low-sulfur requirement, and that increasing imports is a viable alternative to fuel produced in-state. The Clean Air Coalition noted that it costs five cents a gallon to import the fuel, and companies already import a significant amount of fuel to sell alongside fuel produced in-state. It further noted that Southeast Alaska already imports low-sulfur diesel from Puget Sound with no additional costs to consumers.

The 1995 staff report of the Low-Sulfur Diesel Task Force indicated that diesel fuel being shipped to Southeast Alaska is not segregated in shipping barges, and the same fuel that is sold for non-road uses, such as heating oil, is also sold as motor vehicle diesel fuel. The distributors buy the fuel that has the lowest cost. The report noted that low-sulfur diesel fuel can vary from six cents more expensive to three cents less expensive per gallon than high sulfur fuel.[6]

Alaska's December 12, 1995 Petition for Exemption indicates the cost of transporting diesel fuel to Alaska depends on the destination. In Southeast Alaska the transportation costs would not increase by using low-sulfur diesel fuel because fuel is already imported to that area. However, the shipping costs would increase for other areas which currently obtain their fuel from in-state refineries. For example, the shipping cost for low-sulfur diesel fuel from the Puget Sound area to Anchorage would be approximately four cents per gallon, according to one distributor.

In its September 3, 1997 submittal of information to EPA, the Alaska Department of Environmental Conservation said it surveyed three major distributors in Southeast Alaska. Two of these distributors indicated they provide only low-sulfur diesel fuel (they downgrade Jet-A kerosene to sell as diesel fuel), but it does not meet the 0.05 percent low sulfur motor vehicle diesel fuel requirement. Excluding distillate sold as jet fuel, an estimated 23 percent of diesel fuel is sold for on-road uses.[7] These distributors indicated the price difference between the low-sulfur (Jet-A kerosene) and high-sulfur diesel fuels vary from one to four cents per gallon. Consequently, for these two distributors because of the lack of separate storage capacity, the estimated price increase for non-motor vehicle users in Juneau is $92,000 to $368,000 per year. In its October 13, 1997 letter to EPA, the Alaska Department of Environmental Conservation verified that the "low-sulfur" diesel fuel being imported into Southeast Alaska is Jet-A kerosene, which tends to be more expensive than low-sulfur motor vehicle diesel fuel but does not necessarily meet the Federal sulfur requirements.

In evaluating the cost of importing low-sulfur diesel fuel, EPA has

[5] British Columbia is the Canadian Province directly north of the State of Washington, and directly south and east of Southeast Alaska. Directly north of British Columbia and east of the interior of Alaska is the Canadian Province of Yukon, which does not require low-sulfur motor vehicle diesel fuel.

[6] For an independent "snap-shot" assessment of the price difference between low and high sulfur diesel fuel, EPA looked at one time-period, the weeks of August 1 through August 29, 1997. From summary statistics published in "The Oil Daily" for that time period. EPA calculated the difference between the average price of low-sulfur diesel fuel and the average price of high-sulfur diesel fuel. This calculated price difference was 0.79 and 1.16 cents per gallon for the Gulf Coast and New York areas, respectively. The Oil Daily also provides summary statistics for the Los Angeles area, but not for high-sulfur fuel, which apparently is not distributed in Los Angeles.

[7] EPA calculated that if jet fuel were included in the total distillate sales, the estimate for on-road uses in Southeast Alaska would be eight percent, which is consistent with earlier estimates by the Alaska Department of Environmental Conservation that motor vehicle use of total distillates is approximately five percent statewide.

considered two principle components of importation costs: (1) The cost of the fuel to be imported, and (2) the shipping costs. These components are discussed separately, as follows.

The cost of the fuel to be imported is difficult to assess because of the limited information. The 1995 Staff Report of the Low-Sulfur Diesel Task Force indicated that low-sulfur diesel fuel can vary from six cents more expensive to three cents less expensive per gallon than high-sulfur diesel fuel. Two major fuel distributors for Southeast Alaska recently estimated the difference in cost between low-sulfur diesel fuel and high-sulfur diesel fuel to be one to four cents per gallon. The actual costs could be even higher. As indicated by these two distributors, the low-sulfur diesel fuel they import is downgraded Jet-A kerosene, which is arctic grade but does not necessarily meet the low-sulfur motor vehicle requirements.

One would ordinarily presume that if the diesel fuel meeting the low-sulfur requirements cost less, it would be the fuel of choice for the importers. However, according to the October 13, 1997 letter from the Alaska Department of Environmental Conservation, the distributors import the more expensive Jet-A kerosene for all uses because limited storage prevents segregation among the intended uses. Thus, while importing low-sulfur motor vehicle diesel fuel could reduce the cost of the fuel, this cost reduction would apparently be more than offset by the increased cost associated with segregated storage. Further, that fuel which is currently refined and distributed as low-sulfur motor vehicle diesel fuel is not arctic grade.

Consequently, increased costs would be incurred if arctic grade low-sulfur motor vehicle diesel fuel were required. Further, this does not mean that refiners in the lower-48 states will produce the required low-sulfur fuel, or if they did produce it that they would necessarily sell it based on current market prices (see the previous Subsection A, Availability of arctic-grade, low sulfur diesel fuel from out-of-state refiners).

EPA understands that diesel fuel is currently shipped to Southeast Alaska, primarily from the Puget Sound area. Thus, any cost increase due to shipping low-sulfur diesel fuel to Southeast Alaska would be the cost associated with segregating the low-sulfur motor vehicle diesel fuel from the higher-sulfur diesel fuel designated for non-motor vehicle uses. This can be accomplished either by separate tanks on the shipping vessels, or by making separate trips for the low-sulfur diesel fuel designated for motor vehicle use. EPA believes that this cost would be either zero or minimal.

Increased shipping costs to other areas of Alaska may be more than minimal. For areas that already receive imported distillate, current shipping cost estimates are for shipments of non-segregated distillate, of which only about five percent is intended for highway use. Similarly as with Southeast Alaska, the low-sulfur requirement would require either segregated or separate shipments for motor vehicle diesel fuel, but EPA believes that this cost increase would be either zero or minimal. For areas that are now served by in-state refineries, low-sulfur diesel fuel for motor vehicles would have to be imported, thereby adding shipping costs. The Alaska Clean Air Coalition noted that it currently costs five cents a gallon to import fuel. One distributor estimated a cost of four cents per gallon for shipping imported fuel from Puget Sound to Anchorage. This analysis may be purely academic, however, in refiners in the lower-48 states decide to not produce the required low-sulfur arctic grade diesel fuel because of the small motor vehicle diesel market in Alaska.

C. Costs of Storing and Distributing Low-Sulfur Diesel Fuel

The Alaska Center for the Environment, in a letter of June 19, 1996 to the EPA, commented that Canada experienced no increase in distribution costs after requiring low-sulfur diesel fuel. This information was reportedly obtained from a January 11, 1995 meeting with the Alaska Department of Environmental Conservation. The implication of this comment is that distribution costs projected for low-sulfur diesel fuel in Alaska may be overstated.

The 1995 staff report of the Low-Sulfur Diesel Task Force indicated that the increase in distribution costs for low-sulfur diesel fuel can vary widely. For Southeast Alaska the increase in distribution cost would likely be zero. For other areas of the state, three distributors that provided data indicated a five, seven and twenty cents-per-gallon increase in distribution costs for low-sulfur diesel fuel.

Similarly, the December 12, 1995 Petition for Exemption indicated the cost increase would vary depending on the location. It indicated that fuel segregation is the major contributor to distribution costs because the highway diesel market is less than five percent of the distillate market. Distributors "cannot be expected" to import and supply low-sulfur distillate for the other 95 percent of the market. According to the petition, distribution costs are likely to be higher in Kodiak and other lower volume distribution locations, which would have to recover the increased cost of tank and piping additions or modifications over a small volume of fuel. One distributor in Kodiak stated that its cost increase might be as high as 20 cents-per-gallon. In contrast, one distributor in Anchorage indicated it would not have to build a new tank for low-sulfur diesel, and reported it would have no increase in distribution cost.

In its August 5, 1997 submittal to EPA, the Alaska Department of Environmental Conservation estimated that if low-sulfur diesel fuel were required for highway vehicles, even if only during the summer, the distribution cost increases would range from five to twenty cents per gallon. In its September 3, 1997 submittal of information to EPA, the Alaska Department of Environmental Conservation said it surveyed three major distributors in Southeast Alaska. One of these distributors indicated it imports both high and low sulfur (downgraded Jet-A kerosene) diesel fuel into Southeast Alaska, but it mixes the two together because it does not have separate storage facilities. The other two distributors indicated they provide only low-sulfur diesel (downgraded Jet-A kerosene), but it does not meet the 0.05 percent low sulfur diesel fuel requirement. Thus, if low-sulfur diesel fuel were required for motor vehicles, these distributors would have to either provide for separate storage, or purchase complying diesel fuel for all uses.

In a January 27, 1998 telephone conversation, the Alaska Department of Environmental Conservation indicated that cost is not the only factor in considering expansion of fuel storage capacity. It cited an example of the difficulties Mapco has had in expanding its storage capacity at an Anchorage tank farm. Mapco has been trying unsuccessfully for four years to get the necessary permits, but has not been able to overcome the Alaska Department of Conservation requirements, the coastal zone management requirements, and objections by the adjacent residential neighborhood.

In its October 13, 1997 letter to EPA, the Alaska Department of Environmental Conservation indicated that it is not "completely reasonable [to compare] British Columbia's experience with implementation of low sulfur diesel, because British Columbia is less remote and does not have the same climate as Alaska." The interior of Alaska borders Yukon, and considering geography and climate, it would be more appropriate to compare to Yukon's

experience. But Yukon does not require low-sulfur motor vehicle diesel fuel.

Considering the available information, EPA believes that storage and distribution costs would likely increase, and the extent would depend on the area and the distributor. Those costs could likely range from zero or minimal to very high (e.g., in Kodiak).

D. Alternative Fuel or Fuel Standard

In a letter of July 20, 1995 to the Alaska Department of Environmental Conservation, the Clean Air Coalition proposed three alternatives to a permanent statewide exemption to the low sulfur diesel fuel requirement. The first suggested alternative is to exclude Southeast Alaska from any exemption. This area already imports low-sulfur diesel for transportation, power generation and home use from Puget Sound with no additional cost to consumers. The second suggested alternative is to require Alaska to import low-sulfur diesel in the summer months only, and "allow" Alaska to use "winter diesel" in the colder months. The third suggested alternative is to require Alaska to use "winter diesel" year-round, even though the "winter diesel" does not "fully meet Clean Air Act standards." It notes that Chevron produces a "winter diesel fuel" with 0.03 percent sulfur content, and other companies sell it with a sulfur content from 0.65 to 0.10 percent. EPA presumes that this "winter diesel" is Jet-A kerosene, which meets the stringent Alaskan winter diesel fuel cloud point specification of −56° F, and consequently is commonly mixed with, or used as a substitute for, No. 1 diesel fuel in Alaska.

In a letter of April 23, 1996 to the EPA, the Alaska Center for the Environment proposed the same three alternatives to a permanent statewide exemption of the low-sulfur diesel fuel requirement. The letter also references the staff report of the Low-Sulfur Diesel Task Force in noting that the sulfur content of Alaskan Jet-A kerosene contains from 0.03 to 0.09 percent sulfur, and that requiring Jet-A kerosene year-round would simply result in the importation of Jet-A kerosene increasing from the current 13 percent to 21 percent.

Alternative 1: Exclude Southeast Alaska

In support of the alternative that Southeast Alaska be excluded from any exemption, the Clean Air Coalition stated that Southeast Alaska already imports low-sulfur diesel for transportation, power generation and home use from Puget Sound with no additional cost to consumers. In its August 5, 1997 submittal to EPA, the Alaska Department of Environmental Conservation stated that diesel fuel for all uses is imported to Southeast Alaska from the lower 48 states by barge, and on-road and non-road diesel is not segregated. Currently, market price determines whether high or low-sulfur diesel is distributed. If low-sulfur diesel were required for highway use, either separate storage may be needed to segregate the highway fuel, or citizens using diesel for home heating would have to bear any associated price increases for all the diesel fuel to meet the low-sulfur requirement. In the latter case, the Alaska Department of Environmental Conservation estimated that if a five cent per gallon increase occurs, home heating costs could increase $430,000 per year.

In its September 3, 1997 submittal of information to EPA, the Alaska Department of Environmental Conservation indicated it surveyed three major distributors in Southeast Alaska. One of these distributors indicated it imports both high and low sulfur (downgraded Jet-A kerosene) diesel fuel into Southeast Alaska, but it mixes the two together because it does not have separate storage facilities. The other two distributors indicated they provide only low-sulfur diesel (downgraded Jet-A kerosene) to sell as diesel fuel. These distributors indicated the price difference between the low and high-sulfur diesel fuels vary from one to four cents per gallon. In its October 13, 1997 letter to EPA, the Alaska Department of Environmental Conservation clarified that these two distributors import only Jet-A kerosene because jet fuel is a large portion of their market and they are unable to segregate that fuel because of lack of storage facilities. Thus, they purchase the generally more expensive Jet-A kerosene to supply all users of distillate.

The Alaska Department of Environmental Conservation also raised an equity issue. Southeast Alaska residents would be required to bear the cost of any increases due to the low-sulfur requirements, while residents in other areas of the state would be exempted. Finally, the Department of Environmental Conservation stated that Southeast Alaska does not have a major highway system—transport of goods and freight between towns occurs by water or air.

After considering the issues raised, EPA concluded the expected air quality benefits associated with excluding Southeast Alaska from the exemption would be negligible or minimal, and EPA is concerned about the potential for cost increases, not only for motor vehicle uses, but also for other uses, as discussed below.

First EPA considered the impact of an exemption from the motor vehicle diesel fuel sulfur requirements on air quality benefits in Southeast Alaska. All parties generally agree that Southeast Alaska already imports a low-sulfur fuel for some of its market. Also, the portion of fuel that is used for motor vehicles is relatively small. To the extent Southeast Alaska is currently importing low-sulfur diesel fuel that already meets the Federal requirements for motor vehicles, no additional air quality benefits would result from requiring low-sulfur diesel for motor vehicle use. To the extent Southeast Alaska is currently importing low-sulfur non-complying diesel fuel (e.g., Jet-A kerosene with sulfur content above 0.05 percent by weight), minimal air quality benefits would result from requiring that fuel to meet the 0.05 percent sulfur requirement. To the extent Southeast Alaska is currently importing high-sulfur diesel fuel, requiring the use of low-sulfur highway diesel fuel would likely result in a certain amount of reduced per-vehicle emissions.

The only national ambient air quality standards nonattainment area in Southeast Alaska is the Mendenhall Valley in Juneau for PM_{10}, where diesel truck exhaust, brake wear and tire wear combined contribute less than one percent to the PM_{10} inventory.[8] By contrast, the largest sources of PM_{10} in Mendenhall Valley are fugitive and windblown dust which account for 89 percent of the annual inventory. This means that the maximum reduction in PM_{10} that can be achieved by totally eliminating all motor vehicle diesel emissions is only one percent. Low-sulfur motor vehicle diesel fuel meeting the Federal sulfur content requirement would eliminate only a portion of that one percent. Consequently, EPA believes that the air quality benefits of reducing motor vehicle diesel exhaust by requiring low-sulfur diesel fuel for motor vehicles would be negligible. (For discussion on localized environmental impacts see Subsection E: Local environmental effects. Also, EPA is not addressing future requirements, including for the new national ambient air quality standard for $PM_{2.5}$, in this proposed rule—see Subsection H: New National Ambient Air Quality Standards).

The Clean Air Coalition raised the issue that secondary air quality benefits

[8] "PM_{10} Emission Inventories for the Mendenhall Valley and Eagle River Areas," prepared for the U.S. Environmental Protection Agency, Region X, by Engineering-Science, February 1988.

of low-sulfur highway diesel fuel could be significant. Because distillate fuel shipments in Southeast Alaska are generally not segregated by end-use, a requirement for low-sulfur highway diesel fuel might spill over into the distillates transported for non-highway uses, such as for heating and electrical generation.

EPA agrees that there could be secondary air quality benefits to requiring low-sulfur diesel fuel in Southeast Alaska, however, EPA does not know the extent of that potential impact. If suppliers and distributors in Southeast Alaska elect in-full or in-part to not segregate diesel fuel by end-use in response to the motor vehicle low-sulfur diesel fuel requirement, except possibly for Jet-A kerosene, they would have to supply the more restrictive low-sulfur motor vehicle diesel fuel for the non-motor vehicle uses. The air quality benefits—primarily reduced particulate emissions—would depend on the change in proportion of the non-motor vehicle diesel fuel that would meet the motor vehicle low-sulfur diesel fuel requirement, the change in sulfur content between the diesel fuel that is currently distributed and that which would be distributed under a motor vehicle low-sulfur diesel fuel requirement, and the change in emissions between the current and the motor vehicle low-sulfur diesel fuel for the various non-motor vehicle diesel combustion sources. Such diesel sources include, but are not limited to, utility diesel electrical power generators, small diesel electrical power generators (e.g., for construction and remote sites, backup generators for businesses, hospitals and homes, etc.), construction and farm vehicles (e.g., road graders, bull-dozers, farm tractors, etc.), construction and farm equipment (e.g., air compressors, harvesters, etc.) and heaters (e.g., industrial boilers, home furnaces, kerosene heaters, etc.).

Since fugitive and windblown dust account for 89 percent of the annual PM_{10} inventory, the maximum that total emissions from all petroleum products (including diesel fuel, bunker fuel, fuel oil, kerosene, gasoline, etc.) can contribute is only 11 percent of the annual inventory. Assuming a best case scenario in which all petroleum fuels (not just the motor vehicle diesel fuels) were to meet the Federal sulfur content requirement for motor vehicle diesel fuel, only a portion of the 11 percent of the annual inventory of PM_{10} would be eliminated.

Considering the cost impact of requiring low-sulfur highway diesel fuel, market price and storage facilities determines whether high or low-sulfur diesel is distributed to Southeast Alaska. To the extent Southeast Alaska is currently importing low-sulfur diesel that meets the Federal sulfur content requirement for motor vehicle diesel fuel, no additional costs would result from requiring low-sulfur diesel for motor vehicle use. To the extent Southeast Alaska is currently importing diesel fuel that does not meet the Federal sulfur content requirement, EPA assumes that the current market results in the lowest overall fuel cost and that higher overall fuel costs would result from requiring low-sulfur diesel for motor vehicle use. Even though low-sulfur motor vehicle diesel fuel (non-arctic grade) would normally be priced less than Jet-A kerosene in the typical market, apparently this lower cost would not offset the anticipated cost of modifying or expanding the available storage facilities in Southeast Alaska to provide for segregated storage. Consequently, the low-sulfur requirement for motor vehicle diesel fuel is likely to result in higher fuel costs.

These higher fuel costs would likely be passed on to consumers. If segregated storage is provided only for Jet-A kerosene and not for motor vehicle fuel, citizens using the unsegregated low-sulfur motor vehicle fuel for home heating, electricity and other non-road uses would also have to bear the associated price increase. Because non-road applications of diesel fuel use significantly higher quantities of the fuel,[9] this overall cost to homeowners and businesses could be significant.

Because of the lack of significant air quality and cost benefits of excluding Southeast Alaska from the exemption, EPA has rejected this alternative. However, EPA may revisit this alternative in the future if the exemption that is promulgated subsequent to this proposal is no longer appropriate under § 325 based on consideration of the factors relevant under that section.

Alternative 2: Exclude the Summer Seasons From the Exemption

This alternative is designed to achieve some benefits for Alaska by requiring the use of low-sulfur diesel fuel for at least part of the year, but to avoid the unique requirements and constraints associated with Alaska's arctic climate during the winter. In its August 5, 1997 submittal to EPA, the Alaska Department of Environmental Conservation stated that importing low-sulfur diesel fuel only during the summer months is problematic. Alaskan refiners cannot produce low-sulfur diesel fuel and thus would be cut out of the market, and distributors would need additional storage to segregate the low-sulfur diesel fuel, even though segregation might only be necessary for part of the year.

EPA previously concluded in this proposed rule that requiring low-sulfur highway diesel fuel in Alaska is not expected to have a significant impact on ambient PM_{10} or CO levels in Alaska, or Alaska's prospects for attainment with the national ambient air quality standards (see Subsection IV.B: Climate, Meteorology and Air Quality). Consequently, requiring low-sulfur highway diesel fuel in Alaska for only part of the year would also not be expected to have a significant impact on ambient PM_{10} or CO levels in Alaska, or Alaska's prospects for attainment with the national ambient air quality standards. (For discussion on localized environmental impacts—see Subsection E: Local environmental effects. EPA is not addressing future requirements in this proposed rule, including for the new national ambient air quality standard for $PM_{2.5}$—see Subsection H: New National Ambient Air Quality Standards.)

However, costs would arise from either segregated shipping, storage and distribution for the diesel fuel intended for highway use during the summer season, or refining costs associated with producing unsegregated low-sulfur distillate for all distillate uses, except possibly for jet fuel, in Alaska during the summer season. This cost is not well defined, but based on the limited available information, seems to range from zero to significant depending on the specific location within Alaska. (See Section IV.C: Economic Factors and Section V.C: Costs of Storing and Distributing Low-Sulfur Diesel Fuel.) Also, there are non-economic barriers to expanding storage capacity (see Subsection V.C: Costs of Storing and Distributing Low-Sulfur Diesel Fuel).

The cost of expanded storage capacity would have to be borne not only by distributors and wholesalers, but also retailers, individual businesses that store distillate fuels for their own use, and individuals that store distillate fuels for their own use. Alaska's unique climate and geographical conditions cause supply disruptions, especially during the winter season. To account for the supply disruptions, communities, businesses, and individuals in Alaska, perhaps except in Southeast Alaska,

[9] According to its September 3, 1997 submittal to EPA, the Alaska Department of Environmental Conservation stated that the two major distributors in Southeast Alaska that they surveyed and that import only Jet-A kerosene indicated on-road uses of diesel fuel account for only 23 percent of their diesel fuel sales, excluding that which is intended for use by jets. Thus, excluding use by jets, non-road uses of diesel fuel account for more than three times the volume of diesel fuel that is used on-road.

need to stock winter supplies during the summer and transition season. Consequently, they are taking delivery of summer and winter supplies at the same time during part of the year. Additional storage would be needed to segregate the regulated low-sulfur fuel used in the summer season from the unregulated higher-sulfur fuel needed for the winter season. As noted earlier in this proposed rule, low-sulfur diesel fuel as currently produced does not meet the "cloud point" specification required for Alaska's cold temperatures, and if used during the winter season, would significantly affect engine start-up and operation.

Other existing seasonally driven fuels programs (particularly in the lower 48 states) such as oxygenated gasoline for control of carbon monoxide (CO) during winter seasons and low-volatility gasoline for control of volatile organic compounds (VOCs) during summer seasons, rely on refineries and distribution systems that are oriented primarily, or in large part, to supplying gasoline for motor vehicles. This distribution system has adequate storage for transitioning between seasons, and since supply disruptions generally do not occur in the lower 48 states, there is no need to supply and stock fuel for the winter season.

Another confounding factor in Alaska is only less than five percent of Alaska's refining and distribution systems are oriented to supplying highway diesel fuel, and Alaska's highway diesel fuel is not segregated from distillates intended for other uses, such as heating and power generation. Assuming that distributors would supply low-sulfur diesel only for motor vehicle use under this alternative, the distribution and storage costs would be spread out among only one to two percent of the distillate flowing through the system.[10] Assuming that distributors would supply low-sulfur diesel for all distillate uses in the summer season under this alternative, except possibly jet fuel, the higher cost of the low-sulfur diesel fuel would be forced on the non-highway users of the distillate, as well as the additional cost of segregating that fuel from the winter supplies

Another consideration is the administrative and enforcement burden of such a seasonal program. The need to stock winter fuel during the summer and transition seasons might conflict with a regulatory requirement that only low-sulfur diesel be sold for highway use during the summer season. Any regulatory accommodation to allow for stocking of fuel for the winter would complicate enforcement of the summer-time requirement. For an enforcement agency to determine whether a violation has occurred and to subsequently prosecute the violator, the agency would have to determine and subsequently prove that a summer-time sale or distribution of non-complying distillate is intended for highway use rather than for other uses such as heating or power generation, and that it is intended for use during the summer season.

For all of the above reasons, EPA rejects the alternative of requiring low-sulfur highway diesel fuel only in the summer. However, EPA may revisit this alternative in the future if the exemption that is promulgated subsequent to this proposal is no longer appropriate under § 325 based on consideration of the factors relevant under that section.

Alternative 3: Require "Winter Diesel" Year-Round

This alternative is intended to take advantage of the generally lower sulfur content of Jet-A kerosene and its ability to serve as an arctic-grade motor vehicle diesel fuel during the winter season. The staff report of the Low-Sulfur Diesel Task Force states that Jet-A kerosene has a sulfur content specification of 0.3 percent. It tends to have lower sulfur content than standard diesel fuel, but generally does not meet the regulatory requirement for low-sulfur highway diesel of 0.05 percent maximum. For example from the high-sulfur North Slope crude, Mapco produces Jet-A kerosene with 0.09 percent sulfur. As the North Slope crude supplies dwindle over time, the sulfur content of that crude is expected to increase. Chevron imports Jet-A kerosene with 0.03 percent sulfur.

EPA previously concluded in Section IV.B. of this proposed rule that requiring low-sulfur highway diesel fuel in Alaska is not expected to have a significant impact on ambient PM_{10} or CO levels in Alaska, or Alaska's prospects for attainment with the national ambient air quality standards. Since Jet-A kerosene has a sulfur content requirement that is less stringent than that of motor vehicle diesel fuel, requiring Jet-A kerosene in Alaska would also have little or no impact on Alaska meeting the national ambient air quality standards.

Another disadvantage to this alternative is the potential for higher costs of fuel for heating and power generation in areas not served by jet traffic. EPA believes that jet fuel generally costs more than regular diesel fuel.[11] Except when used during the winter for general distillate fuel uses, Jet-A kerosene may be segregated from regular diesel fuel in some areas served by jet traffic because of the unique requirements for jet fuel and its higher cost.

However, in areas not served by jet traffic, EPA assumes that the higher cost Jet-A kerosene is not typically used, except possibly during the winter season as an arctic-grade distillate. This alternative of requiring Jet-A kerosene for motor vehicles would result in either the higher cost of segregated shipping, storage and distribution, which would be passed on to the consumers of the Jet-A kerosene for use in motor vehicles, or the higher cost of the Jet-A kerosene for unsegregated shipping and storage, which would be passed on to consumers of the fuel for all distillate uses, including heating and power generation. As previously addressed, the increased cost of segregated shipping, storage and distribution varies widely depending on the specific location within the state. Based on some estimates by the Alaska Department of Environmental Conservation, the costs of segregated shipping, storage and distribution for non-road use could be significant.

For all of the above reasons, EPA rejects the alternative of requiring Jet-A kerosene year-round.

E. Local Environmental Effects

In a letter to the Alaska Department of Environmental Conservation of July 20, 1995, the Alaska Clean Air Coalition stated that Anchorage has a significant problem with a wintertime "brown cloud" when snow covers the ground, although it indicated that it hadn't yet studied the components of that "brown cloud." It also pointed out that the proportion of total particulates that are caused by diesel engines are expected to rise over the next 20 years as other sources of pollution decline, and that diesel particulate emissions from motor vehicle engines increase to twice the federal standard for motor vehicle engines if high-sulfur fuel is used with engines that are equipped with catalytic converters.

The Alaska Clean Air Coalition indicates it is concerned not only with the local health impacts of PM_{10}, but also that of $PM_{2.5}$, at levels below the national air quality standards. It

[10] The summer season in Alaska is approximately three to four months duration. Since motor vehicle use of distillate is less than five percent, only one to two percent of the distillate would then be used for motor vehicles during the summer season.

[11] EPA looked at the weeks of August 1 thru August 29, 1997 of "The Oil Daily" and calculated the difference between the average price of low-sulfur diesel fuel and the average price of Jet fuel. For this time period, jet fuel cost more than low-sulfur diesel fuel by 2.55, 2.78, and 2.00 cents per gallon for the Gulf Coast, New York, and Los Angeles areas, respectively.

submitted a copy of a 1996 study [12] showing correlation between respiratory health effects in Anchorage and CO and PM_{10} at ambient levels below the national ambient air quality standards. This study showed that winter concentrations of CO were significantly associated with bronchitis and upper respiratory illness, and with automobile exhaust emissions. In a March 11, 1997 letter to EPA, the Alaska Clean Air Coalition references the above study and indicated that "local officials" have found a highly significant correlation between CO and $PM_{2.5}$, but no significant relationship between PM_{10} and $PM_{2.5}$. Besides the health problems associated with PM_{10}, which in Anchorage typically comes from reentrained road materials, "healthy" Anchorage workers and their families have more bronchitis and upper respiratory infection during carbon monoxide "episodes", which are linked to vehicle exhaust during the winter.

In a June 19, 1996 letter to the EPA, the Alaska Clean Air Coalition stated that it believes some neighborhoods have much higher diesel exposure than the existing emissions inventory indicates. Attached to this letter were April 25, 1994 and August 11, 1995 letters to the Alaska Department of Environmental Conservation, and a written version of an oral testimony at the Anchorage School District Budget Hearing Meeting of January 19, 1995, in which the University Area Community Council of Anchorage stated that it had received complaints about diesel fumes. Residents near a transportation facility, at which diesel buses are started early in the mornings and warmed up for lengthy periods of time, complained of diesel fumes entering their homes prior to 6:00 am during clear, cold temperature inversion days.

EPA has concluded that low-sulfur diesel fuel would not significantly mitigate localized impacts in Alaska, and therefore, has determined that the issue of localized impacts does not form a basis for denying Alaska's Petition for exemption. Considering localized impacts on the scale of a town or city, EPA already concluded in Section IV.B. of this Proposed rule that the sulfur content of diesel fuel is not expected to have a significant impact on ambient PM_{10} or CO levels in Alaska, or Alaska's prospects for attainment with the national ambient air quality standards for PM_{10} or CO. This is because of the minimal contribution by motor vehicles, and likely insignificant contribution of petroleum fuel combustion by non-motor vehicle sources, to PM_{10} in areas with PM_{10} attainment problems, and the insignificant effect of diesel fuel sulfur content on CO emissions.

Considering localized impacts on the micro-scale level of one intersection or several blocks, EPA believes there could be some impacts, such as the example presented by the Alaska Clean Air Coalition. While EPA believes that such impacts might range from minimal to significant in these micro scale areas, EPA also believes that requiring low-sulfur diesel will not effectively mitigate the exposure risk to the elevated ambient levels of diesel exhaust in these areas.

Even if EPA decided to require low-sulfur diesel fuel for motor vehicles (that is, to deny Alaska's Petition for Exemption), any existing micro-scale hot spot and its associated total health impact would substantially be unaffected. While the localized ambient PM_{10} and $PM_{2.5}$ levels might be mitigated to some extent by the use of low-sulfur diesel fuel, the remaining levels of localized ambient PM_{10} and $PM_{2.5}$ would still be a health concern. Further, the localized ambient levels of CO and other toxics would not be mitigated by the use of low-sulfur diesel fuel. Alternatively, reducing the amount of total diesel exhaust in these micro-scale areas would significantly reduce the total health impact.

Localized hot spots typically result from high rates of emissions concentrated in a small area, such as emissions from a large number of vehicles in one intersection or parking area, over a time frame that is short enough to not allow for effective dispersal of those emissions under the prevailing meteorological conditions. This underlying problem can be most effectively addressed by reducing the number of vehicles (or number of vehicles running) in the localized area, or by reducing the amount of time the vehicles spend (or the time the vehicles spend running) in the localized area. Such mitigation measures might include traffic control measures to limit, or bans to eliminate, vehicle traffic in those areas, or restrictions on engine idling while parked.

Such measures are most effectively addressed at the local level by the communities, businesses and local and state governments. In the example provided by the Alaska Clean Air Coalition, the October 13, 1997 letter to EPA from the Alaska Department of Environmental Conservation indicates that the Municipality of Anchorage is working on addressing this issue. It has located monitors in the vicinity and it is working with local agencies to explore options to help alleviate or resolve the problem. In addition, some changes were made to the ventilation system of the building that had the greatest number of complaints.

F. Year 2004 and Later Engines

On October 21, 1997 (62 FR 54693), EPA promulgated new combined emission standards for HC and NO_X for 2004 and later heavy-duty diesel motor vehicle engines. These standards are more stringent than the 1998 to 2003 individual emissions standards for HC and NO_X, and are expected to achieve a 50 percent reduction in NO_X emissions. A secondary effect of these standards may be a decrease in particulate emission levels. As with engines currently marketed, the engine manufacturers are expected to design their future engines and emission control systems considering the diesel fuel sulfur content requirement that became effective in 1993 (no greater than 0.05 percent sulfur by weight). However, EPA subsequently permanently exempted that requirement in Alaska for areas not served by the Federal Aid Highway System (FAHS), and temporarily exempted that requirement for areas served by the FAHS until October 1, 1998; thus, old and current technology engines have been, and are now, operating in Alaska using higher sulfur diesel fuel. New technology (low NO_X) engines will be operated using higher sulfur diesel fuel in the areas not served by the FAHS, because of the existing permanent exemption. If EPA now grants Alaska a permanent exemption from the diesel fuel low-sulfur requirement in the areas served by the FAHS, the new technology (low NO_X) engines in Alaska would be operated on diesel fuel with a higher sulfur content throughout the state. One engine manufacturer cited three concerns if this situation were to occur.

The first concern of operating the new technology (low NO_X) engines using high-sulfur fuel is the same concern as operating current technology engines on high-sulfur fuel: condensation of sulfuric acids on the cylinder walls of the engine, thereby causing increased piston ring and cylinder liner wear. This increased wear would require more frequent replacement of the piston rings and cylinder liners, and more frequent oil change intervals. If the piston rings and cylinder liners are not replaced often enough, the sulfuric acids could migrate past the piston rings into the crankcase. This would cause increased wear of other critical engine

[12] "Particulate Air Pollution and Respiratory Disease in Anchorage, Alaska", Gordian, Ozkaynak, Sue, Morris, and Spengler, Environmental Health Perspectives, vol. 104, number 3, March 1996.

components, such as the main bearings. This situation would require more frequent major engine overhauls.

The second concern of operating new technology (low NO_X) engines using high-sulfur diesel fuel is its impact on exhaust gas recirculation (EGR) systems. EGR systems are likely to be extensively used on the engines designed to meet the 2004 and later NO_X requirement. Without EGR, sulfur in the exhaust is not a significant problem because the temperature of the exhaust system is typically high enough to prevent condensation of the sulfuric acids. However, if some of the exhaust is directed back into the engine intake, which is the strategy of EGR systems, condensation of the sulfuric acids could occur on the walls of the EGR components and the air intake system. It may be possible to prevent sulfuric acid damage to the EGR system through the use of exotic materials in the EGR components, which can withstand the sulfuric acids. Alternatively, increased maintenance could mitigate the impact of the sulfuric acids by periodically replacing the components of the EGR and air intake system most susceptible to acid damage.

The third concern of operating new (low NO_X) technology engines using high-sulfur fuel is its impact on exhaust after-treatment emission control devices, such as catalytic converters. Sulfur in fuel can render the catalyst ineffective, allowing exhaust pollutants to pass through the catalyst.

Catalytic converters may be used for NO_X control on some engines designed to meet the 2004 and later emission standards, although such catalysts have not yet been perfected for use on heavy-duty diesel engines. If they are perfected and used, and if EPA grants Alaska an exemption to the low-sulfur diesel fuel requirement, they would likely be rendered ineffective on those engines operated in Alaska using high-sulfur diesel fuel. This would impact the NO_X and particulate emission levels produced by those engines in Alaska, but would not likely affect the operation or durability of those engines. Increased NO_X emissions are not an issue in Alaska, since Alaska has no areas in non-attainment with the NAAQS for ozone. While Alaska does have two designated non-attainment areas for PM_{10}, diesel-fueled motor vehicles contribute less than one percent to the PM_{10} emissions in those areas.

In conclusion, while using higher-sulfur diesel fuel in new technology (low-NO_X) diesel engines may increase certain maintenance costs for owners and operators of those engines, depending on the engine-specific technology and materials used, EPA believes that those potential costs would be mitigated to some extent by the lower cost of the higher-sulfur diesel fuel and would be much less than the total potential costs of requiring low-sulfur diesel fuel in Alaska. Further, EPA believes that the potential air quality benefits that would be forgone by allowing the use of higher-sulfur diesel fuel in new technology (low NO_X) engines are insignificant in Alaska. Therefore, based on the concerns about operating new technology (low NO_X) engines on higher sulfur diesel fuel, EPA concludes that granting Alaska's petition is appropriate under section 325.

G. Manufacturers Emissions Warranty and Recall Liability

The Engine Manufacturers Association (EMA) submitted comments on April 10, 1996, to the docket for previous **Federal Register** Notices related to Alaska's Petition for Exemption (this Proposed rule uses that same docket), and to EPA concerning warranty and recall liability. The EMA stated that 1994 and later heavy-duty diesel engines that are designed to meet the 1994 emissions standards with the use of low-sulfur diesel fuel, and which are operated on high sulfur diesel fuel, will not comply with those 1994 emission standards. Consequently, if EPA grants Alaska an exemption from meeting the sulfur requirement for highway diesel fuel, EPA should also include a corresponding exemption for heavy-duty diesel engine manufacturers and the users of the vehicles in which these engines are placed. The heavy-duty diesel engine manufacturers should be exempted from any liability for ensuring that their 1994 and later model year product lines meet the 1994 and later model year emission standards for engines sold and used in Alaska. They should also be exempted from the warranty requirements of secton 207 of the Clean Air Act, and from liability (including fines and recalls) for any engine affected by the fuel exemption. Users of vehicles in which 1994 and later model year heavy-duty engines are placed should be exempted from tampering liability in the exempted territory. Finally, the exemption should allow either the continued use of 1991 type heavy-duty diesel engine technology or the use of 1994 type heavy-duty diesel engines with the after-treatment device removed.

In support of its position, the EMA offered the following explanation. In promulgating the 1994 and later heavy duty engine emission standards, EPA recognized that, for several reasons, a reduction in diesel fuel sulfur content was required by the engine manufacturers in order to enable their engines to meet the 1994 0.10 g/bhp-hr particulate emission standard. First, fuel sulfur contributes to diesel engine emissions. Approximately two percent of the sulfur in the fuel is directly emitted as sulfate particulates, which cannot be controlled by engine modifications since the combustion process does not remove any sulfur or change its form into a non-particulate substance. Second, catalyzed after-treatment devices are much more effective in the removal of the soluble organic fraction of particulates than non-catalyzed devices. However, some catalysts react with the SO_2 in the exhaust and form additional sulfates, such that total particulates have been found to be higher with an oxidation catalyst or a catalyzed trap than without such after-treatment device when high-sulfur diesel fuel is used. Third, prolonged use of high-sulfur diesel fuel in vehicles equipped with oxidation catalysts will render the catalytic device inoperative, and thus impair the emissions control equipment. There is also a concern that using a high sulfur content fuel over a long period of time may have a tendency to cause plugging of ceramic monolith-type filters, which could lead to more serious engine malfunction and warranty claims.

On October 9, 1996, EPA received a similar comment on behalf of the EMA. In this comment, the EMA concerns are reiterated, and EPA is urged to provide a corresponding exemption to the Alaska exemption for catalyzed engines that would allow the owners to remove the catalysts, allow the manufacturers to sell the engines without the catalyst installed, and limit the manufacturer's obligation to warrant the emissions performance of such engines. The comment states that vehicle owners are already experiencing engine failures directly resulting from catalyst plugging, and this problem will be worse in cold weather. The comment also argues that in areas where high sulfur diesel fuel is permitted, the owners of catalyzed engines are not achieving the particulate matter reductions for which their engines are designed, and it makes no sense for EPA to require the costly emission technology that actually has an adverse environmental impact.

In its August 5, 1997 submittal to EPA, the Alaska Department of Environmental Conservation noted that it had recent discussions with industry. Those discussions indicated that some vehicles have been experiencing problems at extreme cold temperatures on the North Slope, but industry

attributes these problems to temperature and not the sulfur content of the fuel.

Information collected by EPA from several heavy-duty engine manufacturers demonstrates that catalyst plugging is mainly a cold temperature problem and not a high-sulfur fuel issue. For example, Cummins Engine Company attests that plugging is more a function of cold temperature operation than it is of fuel sulfur levels. Additionally, data from other heavy-duty engine manufacturers further supports this statement. The EPA is also aware that the majority of the plugged catalyst problems have been eliminated. A letter to EPA of September 19, 1997, on behalf of the EMA, indicated that the immediate problems that led to EMA's request for possible enforcement discretion regarding the removal of catalytic converters because of the plugging problem have been resolved. However, EMA and its members continue to "have concerns regarding the use of high-sulfur fuel."

Accordingly, EPA sees no need for an exemption that allows the removal of catalysts in the field, or that permits manufacturers to introduce into commerce catalyzed-engines without catalysts, or that limits a manufacturer's obligation to warrant the emissions performance of an engine.

H. New National Ambient Air Quality Standards

EPA has recently promulgated more stringent national ambient air quality standards (NAAQS) for ozone and particulate matter. However, EPA has not yet published guidance for implementation of those standards, and EPA does not have the air quality monitoring data for Alaska by which to base its likely attainment status, especially for $PM_{2.5}$. Consequently, it is not possible for EPA to address the impact of today's proposed rule on the ability of Alaska to attain the new NAAQS. EPA is therefore setting aside the issue of attainment with the new NAAQS in today's rule. EPA reserves the right to revisit this issue in the future, after public notice and comment, if the exemption is no longer appropriate under section 325 based on consideration of the factors relevant under that section.

I. Status of Certain Marine Highway Communities

In granting both a permanent and a temporary exemption in its March 22, 1994 Notice, EPA distinguished between those areas served by the Federal Aid Highway System and those not served by the Federal Aid Highway System. Areas not served by the Federal Aid Highway System were deemed to be remote areas and qualified for the permanent exemption. Areas served by the Federal Aid Highway System, including the Marine Highway System, were qualified only for the temporary exemption. In letters of February 9, 1995 and April 12, 1995, the Alaska Department of Environmental Conservation requested that EPA consider certain communities served by the Marine Highway System, and one served only by a barge line, on the Alaska Peninsula, Kodiak Island and the Aleutian Islands to be remote communities and subject to the permanent exemption. It indicated that these communities have few vehicles (all but three have an average daily traffic of 499 vehicles or less) and highway diesel fuel sales amount to only a small fraction of total diesel fuel sales (e.g., only about one percent or less). EPA decided to not address this issue in today's proposed rule because today's proposed rule to effectively grant a statewide permanent exemption makes this issue moot. However, if EPA reconsiders or withdraws its decision to grant a permanent exemption for areas served by the Federal Aid Highway System, this issue may need to be addressed at that time.

VI. Decision for Permanent Exemption

In this notice, the Agency is proposing to grant a permanent exemption from the diesel fuel sulfur content requirement of 0.05 percent by weight to those areas in Alaska served by the Federal Aid Highway System. For the same reasons, the Agency also is proposing to grant a permanent exemption from those provisions of section 211(g)(2) [13] of the Act that prohibit the fueling of motor vehicles with high-sulfur diesel fuel. Sections 211(g) and 211(i) both restrict the use of high-sulfur motor vehicle diesel fuel.

Further, consistent with the March 22, 1994 Notice of Final Decision (59 FR 13610), dyeing diesel fuel to be used in nonroad applications will be unnecessary in Alaska as long as the diesel fuel has a minimum cetane index of 40. The motor vehicle diesel fuel regulations, codified at 40 CFR 80.29, provide that any diesel fuel which does not show visible evidence of the dye solvent red 164 shall be considered to be available for use in motor vehicles and subject to the sulfur and cetane index requirements. The Alaska Department of Environmental Conservation and various refiners in Alaska have indicated to EPA that all diesel fuel manufactured for sale and marketed in Alaska, for use in both motor vehicle and nonroad applications, meets the minimum cetane requirement for motor vehicle diesel fuel.

Today's proposed rule would exempt diesel fuel in Alaska from the sulfur requirement. Therefore, as long as the diesel fuel in Alaska has a minimum cetane index of 40, dyeing diesel fuel to be used in nonroad applications will be unnecessary in Alaska. However, in the event high-sulfur diesel fuel is shipped from Alaska to the lower-48 states, it would be necessary for the shipping facility to add dye to the noncomplying fuel before it is introduced into commerce in the lower-48 states. In addition, supporting documentation (e.g., product transfer documents) must clearly indicate the fuel may not comply with the sulfur standard for motor vehicle diesel fuel and is not to be used as a motor vehicle fuel. Conversely, EPA will not require high-sulfur diesel fuel to be dyed if it is being shipped from the lower-48 states to Alaska, but supporting documentation must substantiate that the fuel is only for shipment to Alaska and that it may not comply with the sulfur standard for motor vehicle diesel fuel.

EPA will assume that all diesel fuel found in any state, except in the state of Alaska, is intended for sale in any state and subject to the diesel fuel standards, unless the supporting documentation clearly substantiates the fuel is to be shipped only to Alaska. The documentation should further clearly state that the fuel may not comply with the Federal diesel fuel standards. If such product enters the market of any state, other than Alaska (e.g., is on route to or at a dispensing facility in a state other than Alaska), and is found to exceed the applicable sulfur content standard, all parties will be presumed liable, as set forth in the regulations. However, EPA will consider this evidence in determining whether a party caused the violation.

With regard to the storage of diesel fuel in any state other than Alaska, a refiner or transporter will not be held liable for diesel fuel that does not comply with the applicable sulfur content standard and dye requirement if it can show that the diesel fuel is truly

[13] This subsection makes it unlawful for any person to introduce or cause or allow the introduction into any motor vehicle of diesel fuel which they know or should know contains a concentration of sulfur in excess of 0.05 percent (by weight). It would clearly be impossible to hold persons liable for misfueling with diesel fuel with a sulfur content higher than 0.05 percent by weight, when such fuel is permitted to be sold or dispensed for use in motor vehicles. The proposed exemptions would include exemptions from this prohibition, but not include the prohibitions in section 211(g)(2) relating to the minimum cetane index or alternative aromatic levels.

being stored and is not being sold, offered for sale, supplied, offered for supply, transported or dispensed. However, once diesel fuel leaves a refinery or transporter facility, a party can no longer escape liability by claiming that the diesel fuel was simply in storage. Although diesel fuel may temporarily come to rest at some point after leaving a refinery or transporter facility, the intent of the regulations is to cover all diesel fuel being distributed in the marketplace. Once diesel fuel leaves a refinery or shipping facility it is in the marketplace and as such is in the process of being sold, supplied, offered for sale or supply, or transported.

The basis for today's proposed rule is that compliance with the motor vehicle sulfur requirement in Alaska for areas served by the Federal Aid Highway System is unreasonable because it would create an economic burden for refiners, distributors and consumers of diesel fuel. This economic burden is created by unique meteorological conditions in Alaska and a set of unique distillate product demands in the state. As a result of these conditions, it is reasonable to not mandate that low-sulfur motor vehicle diesel fuel be available for use in Alaska for areas served by the Federal Aid Highway System.

In the August 19, 1996 Notice of Final Decision (61 FR 42812), the EPA believed that a 24-month continuation of the temporary exemption for areas served by the Federal Aid Highway System from the diesel fuel sulfur content requirement was reasonable and appropriate so that the Agency could consider recent comments on the state's petition. A permanent exemption was not appropriate at that time because EPA had not yet verified all relevant information and comments submitted by other interested parties.

Alaska's December 12, 1995 petition included a compilation of information provided by a Task Force (in which an EPA representative participated) that was established after the February 12, 1993 petition to further evaluate the conditions as described in that earlier petition. These conditions included: the availability of arctic-grade low-sulfur diesel fuel from out-of-state refiners, the costs associated with importing the fuel, and the costs of storing and distributing the fuel to areas on the highway system. The conditions and factors that were identified in the initial petition were expanded upon in the task force review. At that time the Agency believed there were several issues that merited further consideration prior to making a final decision to act on the state's request for a permanent exemption. These issues included consideration of an alternative fuel standard or fuel, local environmental effects, manufacturers emissions warranty and recall liability, and the impact of EPA possibly tightening motor vehicle emission standards for model year 2004 and later heavy-duty engines (which EPA subsequently promulgated in 1997).

The comments and other issues that are summarized in this notice were subsequently considered by the Agency, prior to issuing this proposed rule on the State's request for a permanent exemption.

VII. Public Participation

Following the August 27, 1993 publication of EPA's proposed decision to grant the first exemption from the low-sulfur diesel fuel requirements requested by Alaska, there was a thirty day comment period, during which interested parties could request a hearing or submit comments on the proposal. The Agency received no request for a hearing. Comments were received both in support of the proposal to grant the exemption and expressing concerns over the impact of granting the exemption. These comments were considered in the Agency's decision to grant the initial temporary exemption. The Agency received Alaska's request for a permanent exemption for the Federal Aid Highway System areas in December of 1995. Since that time, the Agency has received comments on the petition from the Alaska Center for the Environment, the Alaska Clean Air Coalition, and the Engine Manufacturers of America. EPA believed the issues raised by the comments that were submitted and possible tightening of heavy-duty motor vehicle engine standards in 2004 necessitated further consideration before the Agency made a decision on Alaska's request for a permanent waiver.

The Agency is publishing this action as a proposed rule to allow interested parties an additional opportunity to request a hearing or to submit comments. The comment period will close May 28, 1998, unless the Agency receives a request to testify at a public hearing by May 12, 1998. If EPA receives a request to testify at a public hearing, the comment period will be extended until 30 days after the public hearing. Any adverse comments received by the close of the comment period will be addressed in a subsequent final rule that will be published in the **Federal Register**.

VIII. Statutory Authority

Authority for the action in this proposed rule is in sections 211 (42 U.S.C. 7545) and 325(a)(1) (42 U.S.C. 7625-1(a)(1)) of the Clean Air Act, as amended.

IX. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 [14], the Agency must determine whether a regulation 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 of 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 this Executive Order. [15]

It has been determined that this proposed rule is not a "significant regulatory action" under the terms of Executive Order 12866 and is therefore not subject to OMB review.

X. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that Federal Agencies examine the impacts of their regulations on small entities. The act requires an Agency to prepare a regulatory flexibility analysis in conjunction with notice and comment rulemaking, unless the Agency head certifies that the rule will not have a significant impact on a substantial number of small entities. 5 U.S.C. 605(b).

Today's proposed action to make permanent the temporary exemption of the low-sulfur diesel fuel requirements in the State of Alaska, will not result in any additional economic burden on any of the affected parties, including small entities involved in the oil industry, the automotive industry and the automotive service industry. EPA is not imposing any new requirements on regulated

[14] 58 FR 51736 (October 4, 1993)

[15] *Id.* at section 3(f)(1)-(4).

entities, but instead is continuing an exemption from a requirement, which makes it less restrictive and less burdensome.

Therefore, the Administrator certifies that this proposed rule will not have a significant impact on a substantial number of small entities, and that a regulatory flexibility analysis is not necessary in connection with this proposed rule.

XI. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 544 U.S.C. 3501 *et seq.*, and implementing regulations, 5 CFR part 1320, do not apply to this action as it does not involve the collection of information as defined therein.

XII. Unfunded Mandates Act

Under section 202 of the Unfunded Mandates Reform Act of 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate with estimated costs to the private sector of $100 million or more, or to state, local, or tribal governments of $100 million or more in the aggregate. 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 proposed rule imposes no new federal requirements and does not include any federal mandate with costs to the private sector or to state, local, or tribal governments. Therefore, the Administrator certifies that this proposed rule does not require a budgetary impact statement.

List of Subjects

40 CFR Part 69

Air pollution control, Alaska.

40 CFR Part 80

Environmental protection, Diesel fuel, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: April 14, 1998.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 69—SPECIAL EXEMPTIONS FROM REQUIREMENTS OF THE CLEAN AIR ACT

1. The authority citation for part 69 is revised to read as follows:

Authority: 42 U.S.C. 7545(1) and (g), 7625–1.

2. Subpart E consisting of § 69.51 is added to read as follows:

Subpart E—Alaska

Sec.
69.51 Exemptions.

Subpart E—Alaska

§ 69.51 Exemptions.

(a) Persons in the state of Alaska, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers may manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply, or transport diesel fuel, which fails to meet the sulfur concentration or dye requirements of 40 CFR 80.29, in the state of Alaska if the fuel is used only in the state of Alaska.

(b) Persons outside the state of Alaska, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers may manufacture, introduce into commerce, sell, offer for sale, supply, offer for supply, or transport diesel fuel, which fails to meet the sulfur concentration or dye requirements of § 80.29, outside the state of Alaska if the fuel is:

(1) Used only in the state of Alaska; and

(2) Accompanied by supporting documentation that clearly substantiates the fuel is for use only in the state of Alaska and does not comply with the Federal sulfur standard applicable to motor vehicle diesel fuel.

PART 80—REGULATION OF FUELS AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Sec. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545 and 7601(a)).

2. Section 80.29 is amended by revising paragraph (a)(1) introductory text to read as follows:

§ 80.29 Controls and prohibitions on diesel fuel quality.

(a) *Prohibited activities.* (1) Beginning October 1, 1993, no person, including but not limited to, refiners, importers, distributors, resellers, carriers, retailers or wholesale purchaser-consumers, shall manufacture, introduce into commerce, sell, offer for sale, supply, dispense, offer for supply or transport any diesel fuel for use in motor vehicles, except as provided in 40 CFR 69.51, unless the diesel fuel:

* * * * *

[FR Doc. 98–10710 Filed 4–27–98; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–6005–1]

Operating Permits Program; Notice of Availability of Draft Rules; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period for notice of availability of draft rules.

SUMMARY: On March 25, 1998, EPA published a notice in the **Federal Register** announcing opportunity for public review and comment on portions of the draft preamble and all but two sections of draft revisions to the operating permits regulations in 40 CFR part 70. (The remaining portions of the preamble and regulations will be made available at a later date.) The public review period for that notice ends April 24, 1998. This action extends the public review period for that notice until May 26, 1998.

DATES: Comments on the draft preamble and regulatory revisions must be received by May 26, 1998.

ADDRESSES: The draft preamble and regulatory revisions are available in EPA's Air Docket number A–93–50 as items VI–A–5 and VI–A–4, respectively. This docket is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday, at the address listed below. A reasonable fee may be charged for copying. The address of the EPA air docket is: EPA Air Docket (6102), Attention: Docket Number A–93–50, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460. Requests for material may be made by telephone at 202–260–7548.

The drafts may also be downloaded from the Internet at: http://www.epa.gov/ttn/oarpg/t5pgm.html.

Comments on the materials referenced in today's notice must be mailed (in duplicate if possible) to: EPA Air Docket (6102), Attention: Docket No. A–93–50, at the above address. Please identify comments as concerning today's notice of availability of items VI–A–4 and VI–A–5.

FOR FURTHER INFORMATION CONTACT: Ray Vogel (telephone 919–541–3153) or Roger Powell (telephone 919–541–5331), Mail Drop 12, EPA, Information Transfer and Program Integration Division, Research Triangle Park, North Carolina, 27711. Internet addresses are: vogel.ray@epa.gov and powell.roger@epa.gov.

SUPPLEMENTARY INFORMATION: The part 70 operating permits regulations were originally promulgated on July 21, 1992 (57 FR 32250). Revisions to part 70 were proposed on August 29, 1994 (59 FR 44460) and August 31, 1995 (60 FR 45530). On May 13, 1997, the Agency released a draft of the final preamble and regulatory revision rulemaking that would revise part 70 for purposes of considering any final comments from interested parties before final action. The draft rulemaking reflected EPA's consideration of comments on the 1994 and 1995 proposals, and included additional regulatory changes that EPA believed appropriate based on comments. Availability of the May 13, 1997 draft and a 30-day public review period were announced in a June 3, 1997 Federal Register notice (62 FR 30289).

Subsequently, after discussing the draft rulemaking with industry, environmental, and State/local permitting agency representatives ("stakeholders"), EPA decided that additional changes were necessary, particularly to the section on permit revision procedures. Consequently, EPA announced in a July 3, 1997 notice (62 FR 36039) that the public should withhold comment on the May 1997 draft until a new draft was prepared.

Since May 1997, EPA has discussed with stakeholders alternative approaches to the permit revision system contained in the May draft. While the discussions with stakeholders to date have involved the provisions of §§ 70.7 and 70.8, EPA also wants to discuss with the stakeholders any concerns with the remaining sections. To prepare for those discussions, it is important to be aware of concerns from the public at large on the remaining sections. Therefore, the March 25, 1998 notice (63 FR 14392) announced availability of the remaining sections of part 70 for public review and provided for a period until April 25, 1998 for the public to submit any comments. The preamble and regulatory revisions related to §§ 70.7 and 70.8 will be made available in a future Federal Register notice of availability.

Items VI–A–4 and VI–A–5 in docket A–93–50 contain the portions of the preamble and regulations for the revisions that may be made to §§ 70.2 through 70.6 and §§ 70.9 through 70.11 of the part 70 regulations. That material is also available on the Internet at the address noted above. As in the June 3, 1997 notice, EPA seeks comment only on regulatory revisions that have changed since the August 1994 and August 1995 proposals. The changes since the proposals are addressed in the preamble discussions on the relevant sections of part 70 (e.g. § 70.2).

This action extends the comment submittal period until May 26, 1998. Please send comments directly to Docket A–93–50 at the address previously provided and specify that they are in response to this notice. Comments will be forwarded from the Air Docket to the Operating Permits Group of EPA.

Dated: April 21, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–11264 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[FRL–6005–2]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Draft Tier 2 Study and Fuel Sulfur Paper Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of document availability.

SUMMARY: The Clean Air Act requires EPA to prepare a study and submit a report to Congress regarding whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required. EPA has performed the required study, called the "Tier 2 Study." Today EPA is releasing a draft of the study for public comment prior to submitting it to Congress.

In the very near future, EPA will also be releasing a related document titled "EPA Staff Paper on Gasoline Sulfur Issues" and encourages public comment on this document as well.

DATES: EPA requests that comments on the draft Tier 2 Study be submitted by June 12, 1998. A public meeting to discuss the gasoline sulfur issues and the Gasoline Sulfur Staff Paper will be held on May 12, 1998 from 10:00 a.m. to 5:30 p.m.

ADDRESSES: Materials relevant to this rulemaking are contained in Docket No. A–97–10 which may be found at 401 M Street, SW., Washington, DC 20460 and may be viewed in room M1500 between 8:00 a.m. and 5:30 p.m., Monday through Friday. The telephone number is (202) 260–7548 and the fax number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket material.

The Draft Tier 2 Study is also available electronically from the EPA Office of Mobile Sources World Wide Web site at http://www.epa.gov/omswww/tr2home/htm. The Gasoline Sulfur Staff Paper will also be available on this Web site upon its release.

Comments should be sent to Docket No. A–97–10 at the above address. EPA requests that a copy of comments also be sent to Tad Wysor, U.S. EPA, Engine Programs and Compliance Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105 or to the Tier 2 E-mailbox "tier2-study@epamail.epa.gov."

The public meeting will be held at Quality Hotel, 1200 N. Courthouse Rd., Arlington, VA 22201 (Telephone: (703) 524–4000).

FOR FURTHER INFORMATION CONTACT: Ms. Delores Frank, U.S. EPA, Fuels and Energy Division, 2565 Plymouth Road, Ann Arbor, Michigan 48105, Telephone 734–668–4295.

SUPPLEMENTARY INFORMATION: The 1990 revisions to the Clean Air Act set specific exhaust emission standards for light-duty vehicles or LDVs (passenger cars) and light-duty trucks or LDTs (including sport-utility vehicles, minivans, and pickup trucks) beginning in the 1994 model year. These "Tier 1" standards were required by Sections 202(g) and (h) of the Clean Air Act as revised ("the Act"). Section 202(i) of the Act requires EPA to "study whether or not further reductions in emissions from light-duty vehicles and light-duty trucks should be required...." The Act required EPA to examine three specific issues related to that question: (1) the need for further emission reductions in order to attain or maintain compliance with the National Ambient Air Quality Standards (NAAQS); (2) the technological feasibility of meeting more stringent standards by the 2004 model year; and (3) the cost-effectiveness of such further reductions as compared to alternate means of reducing emissions. The Study was to be submitted to Congress by June 1, 1997. EPA has recently entered into a draft consent decree to sign a letter transmitting the Study by July 31, 1998.

Section 202(i) of the Act also requires that EPA provide a reasonable opportunity for public comment on the Tier 2 study prior to its formal submittal to Congress. In response to this

requirement, the Agency is today releasing EPA's current draft of the Tier 2 study for comment. EPA will include a summary of any comments received on this draft when it submits the final report to Congress.

In the draft Tier 2 Study, EPA discusses and provides information on each of the three areas mentioned above but does not make a determination about whether further emission reductions are appropriate. EPA plans to make such a determination by way of later rulemaking action, to be finalized by the end of 1999, as required by the Act. In addition to addressing the three issues of need, feasibility, and cost effectiveness, the Study also discusses several key issues related to the development of a potential Tier 2 program and the next steps EPA is planning.

In addition to the draft Tier 2 Study, EPA will soon be releasing a related document titled "EPA Staff Paper on Gasoline Sulfur Issues." Because of its effect on catalytic converters, sulfur in gasoline is a very important issue when vehicle emission standards more stringent than today's standards are considered. The Staff Paper discusses a range of issues including the interactions between sulfur in gasoline and vehicle technology, the impact on refinery operations of reducing gasoline sulfur content, other fuel quality issues, a review of fuel sulfur control programs in other countries, and a review of proposals that have been put forward on this topic by key stakeholders. EPA plans to address any comments received on the Staff Paper as a part of any proposed rulemaking that EPA pursues relating to this Tier 2 emission standards. EPA will also hold a public meeting to discuss issues relating to gasoline sulfur and the Gasoline Sulfur Staff Paper (see **ADDRESSES** above).

Dated: April, 23, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–11266 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 272

[FRL–6001–1]

Hazardous Waste Management Program: Final Authorization and Incorporation by Reference of State Hazardous Waste Management Program for New Mexico

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to incorporate by reference EPA's approval of the New Mexico Environment Department's (NMED) RCRA Cluster IV hazardous waste program and to approve its revisions to that program submitted by the State of New Mexico. In the final rules section of this **Federal Register**, the EPA is approving the State's request as a immediate final rule without prior proposal because USEPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the immediate final rule. If no adverse written comments are received in response to that immediate final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse written comments, a second **Federal Register** document will be published before the time the immediate final rule takes effect. The second document may withdraw the immediate final rule or identify the issues raised, respond to the comments and affirm that the immediate final rule will take effect as scheduled. Any parties interested in commenting on this action should do so at this time.

DATES: Written comments on this proposed rule must be received on or before May 28, 1998.

ADDRESSES: Written comments may be mailed to Alima Patterson, Region 6 Authorization Coordinator, Grants and Authorization Section (6PD–G), Multimedia Planning and Permitting Division, at the address listed below. Copies of the materials submitted by NMED may be examined during normal business hours at the following locations: EPA Region 6 Library, 12th Floor, Wells Fargo Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone number: (214) 665–6444. New Mexico Environment Department, 1190, St Francis Drive, Sante Fe, New Mexico 87502. Phone number: (505) 827–1558.

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

SUPPLEMENTARY INFORMATION: For additional information see the immediate final rule published in the rules section of this **Federal Register**.

Dated: March 19, 1998.

Lynda F. Carroll,

Acting Deputy Regional Administrator, Region 6.

[FR Doc. 98–11279 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6003–7]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Pine Bend Sanitary Landfill Site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) Region 5 announces its intent to delete the Pine Bend Sanitary Landfill (the Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which U.S. EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended. This action is being taken by U.S. EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and U.S. EPA, in consultation with the State of Minnesota, has determined that no further CERCLA response is appropriate. Moreover, U.S. EPA and the State have determined that remedial activities conducted at the Site to date have been protective of public health, welfare, and the environment.

DATES: Comments concerning the proposed deletion of the Site from the NPL may be submitted on or before May 28, 1998.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region 5 office

and at the local information repository located at: Dakota County Library System, Wescott Branch, 1340 Wescott Road, Eagan, MN 55123. Requests for copies of documents should be directed to the Region 5 Docket Office. The address and phone number for the Regional Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Gladys Beard (SR–6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–7253 or Don Deblasio (P–19J), Office of Public Affairs, U.S. EPA, Region 5, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–4360.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The U.S. Environmental Protection Agency (EPA) Region 5 announces its intent to delete the Pine Bend Sanitary Landfill Site from the National Priorities List (NPL), which constitutes Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), and requests comments on the proposed deletion. The 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 those sites. Sites on the NPL may be the subject of remedial actions financed by the Potentially Responsible Parties or the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if the conditions at the Site warrant such action.

The U.S. EPA will accept comments on this proposal for thirty (30) days after publication of this document in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site. Section V explains how the Site meets the deletion criteria.

Deletion of sites from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Furthermore, deletion from the NPL does not in any way alter U.S. EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist in Agency management.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete Sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making this determination, U.S. EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) The Remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, remedial measures are not appropriate.

III. Deletion Procedures

Upon determination that at least one of the criteria described in 40 CFR 300.425(e) has been met, U.S. EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** notice, and a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day comment period. The public is asked to comment on U.S. EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate U.S. EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, the U.S. EPA Regional Office will prepare a Responsiveness Summary to evaluate and address each significant comment and any significant new data submitted during the comment period. The public is welcome to contact the U.S. EPA Region V Office to obtain a copy of this responsiveness summary. If U.S. EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register**.

IV. Site Background

The Pine Bend Sanitary Landfill (PBSL) site is located in northeast Dakota County, on the periphery of the Minneapolis/St. Paul metropolitan area, in Sections 33, Township 27 North, Range 22 West, City of Inver Grove Heights, Minnesota. PBSL encompasses approximately 255 acres and is an open, operating, solid waste facility which accepts municipal solid waste and nonhazardous industrial waste. The PBSL was first issued a permit (SW–045) to operate by the Minnesota Pollution Control Agency (MPCA) on September 7, 1971. Pine Bend Landfill, Inc., a wholly-owned subsidiary of Browning Ferris Industries, is the owner and permittee of the PBSL.

PBSL was added to the NPL on June 10, 1986. It is also on the Minnesota Permanent List of Priorities. Its inclusion on the NPL was the result of finding Volatile Organic Compounds in ground water emanating from the Site. U.S. EPA and MPCA concluded that a plume of contamination from the landfill was moving through the surficial aquifer and discharging to the Mississippi River through springs in the river bottom.

Crosby American Demolition Landfill (CADL) is located immediately north of the PBSL. Because a plume of contamination from the CADL has comingled with a plume of contamination from PBSL east of their common border, the MPCA has considered the two landfills as one site. U.S. EPA, however, has for administrative purposes treated the two landfills as two sites, one of which—PBSL—is on the NPL; the other—CADL—is not.

By agreement with U.S. EPA, MPCA has been the lead agency for the PBSL site. Under MPCA's direction and oversight, Pine Bend Landfill, Inc. conducted a number of response activities, including the following: a Remedial Investigation (RI) (1986), additional RI activities (1987), a pump test (1989–90), preparation of a Preliminary Alternatives Report (1989), interim groundwater monitoring (1988–1994), preparation of a final RI report in August 1991 and an MPCA approved Detailed Analysis Report in November 1994.

On September 30, 1991, MPCA and U.S. EPA signed a Record of Decision (ROD) for Operable Unit 1—the first phase of a permanent remedy for the Site. The ROD called for the extension of the existing City of Inver Grove Heights municipal water supply, the connection of impacted or potentially impacted residents to the municipal water supply, and the permanent sealing of residential water supply wells in the impacted area. The work under this operable unit was completed in November 1994.

V. Basis for Site Deletion Proposal

In September, 1995, MPCA and U.S. EPA signed a ROD calling for no further action at the Site. There are two reasons

for the no-action decision. First, further action to control the source of contamination (installation of a landfill cover, clay liner, leachate collection system, etc.) and to address contaminated ground water would be conducted under the facility's operating permit, such that no further action under CERCLA would be necessary. Second, completion of Operable Unit 1, under which residents in the area were connected to a municipal water supply, reduced the risk posed by contaminated ground water.

U.S. EPA is now proposing to delete PBSL from the NPL for one of the same reasons that it signed a no-action ROD in 1995: work that might otherwise be required under CERCLA will be accomplished under the facility's RCRA permit. The Site is an active Treatment, Storage, and Disposal facility, owned and operated by Browning Ferris Industries ("BFI"). BFI clearly has the resources to conduct the work required. In accordance with the operating permit issued by MPCA, BFI placed a final cover on portions of the landfill that are filled to final elevation, installed a combustible gas collection system, installed a clay liner and leachate collection system in an expansion area, and installed a surface drainage control system. Under the terms of an Amended Order issued by MPCA on October 23, 1990, BFI will monitor ground water in accordance with the Minnesota Solid Waste Landfill Compliance Program.

A five-year review pursuant to OSWER Directive 9355.7–02 "Structure and Components of Five-Year Reviews") will be conducted at the Site. The Five-Year review is scheduled for December 1999.

EPA, with concurrence from the State of Minnesota, has determined that all appropriate Fund-financed responses under CERCLA at the Pine Bend Sanitary Site have been completed, and no further CERCLA response actions by responsible parties are appropriate in order to provide protection of human health and environment. Therefore, EPA proposes to delete the Site from the NPL.

Dated: April 7, 1998.

Michelle D. Jordan,

Acting Regional Administrator, U.S. EPA, Region V.

[FR Doc. 98–10978 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[DA 98–715]

Common Carrier Bureau Seeks Comment on Proposals To Revise the Methodology for Determining Universal Service Support

AGENCY: Federal Communications Commission.

ACTION: Notice; seeking comment on proposals in rulemaking proceeding.

SUMMARY: In this Public Notice, the Common Carrier Bureau (Bureau) describes certain proposals by outside parties to alter the methodology for determining high cost universal service support based on forward-looking economic costs. Some parties have filed petitions for reconsideration or judicial appeals of the methodology announced in the May 8, 1997 *Universal Service Order* and the Commission has committed to complete the reconsideration of its methodology before it is implemented for non-rural carriers. This Public Notice seeks additional proposals to modify the methodology, as well as comment on the existing proposals.

DATES: Comment date for filing additional proposals is April 27, 1998, comments are due May 15, 1998, and reply comments are due May 29, 1998.

ADDRESSES: One original and five copies of all filings must be sent to Magalie Roman Salas, Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Parties must also send copies to the individuals listed on the attached Service List and to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Chuck Keller at (202) 418–7380 or <ckeller@fcc.gov>.

SUPPLEMENTARY INFORMATION: In the *Universal Service Order*, Federal State Joint Board on Universal Service, *Report & Order*, CC Docket No. 96–45, 12 FCC Rcd 8776 (1997), 62 FR 32862 (June 17, 1997), as corrected by Federal State Joint Board on Universal Service, CC Docket 96–45, *Errata*, FCC 97–157 (released June 4, 1997), *appeal pending*, Texas Office of Public Utility Counsel v. FCC, No. 97–60421 (5th Cir. filed June 25, 1997), the Commission adopted a four-step methodology for determining the appropriate level of federal universal service support that non-rural carriers will receive beginning January 1, 1999. As part of that methodology, the Commission determined that the federal fund will provide at least 25 percent of the total support necessary for non-rural carriers (25/75 decision). The Commission also concluded that rural carriers will receive support based on forward-looking costs no sooner than January 1, 2001. Several parties have set forth proposals to modify the Commission's approach to determining support for non-rural and rural carriers. Some of these proposals were presented in the Commission's proceeding to prepare a Report to Congress on Universal Service, required by statute, Departments of Congress, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, Pub. L. 105–119, 111 Stat. 2440, 2521–2522, § 623. Federal-State Joint Board on Universal Service, *Report to Congress*, CC Docket No. 96–45, FCC 98–67, (released April 10, 1998) (Report to Congress), and, in particular, in the *en banc* hearing on universal service issues held on March 6, 1998. In this Public Notice, we seek to augment the record by encouraging interested parties to submit additional proposals for modifying the Commission's methodology, or updates to those on the record, by April 27, 1998. Comments from interested parties on these proposals are due on May 15, 1998, and reply comments are due on May 29, 1998. In the *Report to Congress*, the Commission states that, prior to implementing the Commission's methodology for determining high cost support for non-rural carriers, the Commission will complete a reconsideration of its 25/75 decision and of the method of distributing high cost support. *Report to Congress* at para. 224. The Commission also states that it will continue to work closely on these issues with the state members of the Federal-State Joint Board on Universal Service (Joint Board), including holding an *en banc* hearing with participation by the Joint Board Commissioners. *See Report to Congress* at paras. 224, 228, 231.

Background

In the *Universal Service Order* and the accompanying *Access Charge Reform Order*, Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Transport Rate Structure and Pricing and End User Common Line Charges, CC Docket Nos. 96–262, 94–1, 91–213, and 95–72, *First Report and Order*, 62 FR 31868 (June 11, 1997), 12 FCC Rcd 15982 (1997) (*Access Charge Reform Order*); *Order on Reconsideration*, 62 FR 40460 (July 29,

1997), 12 FCC Rcd 10119 (1997); *Second Order on Reconsideration*, 62 FR 56121 (October 29, 1997), 12 FCC Rcd 16606 (1997); *Third Order on Reconsideration*, 62 FR 65619 (December 15, 1997), 12 FCC Rcd 22430 (1997); *See also Fourth Report and Order* and *Second Report and Order*, CC Docket Nos. 94–1, 96–262, 62 FR 59340 (June 11, 1997), 12 FCC Rcd 16642 (1997), the Commission set in place rules that will identify and convert existing mechanisms for providing federal universal service support to explicit, competitively-neutral federal universal service support mechanisms. In particular, the Commission adopted a methodology for universal service support for rural and non-rural carriers that will replace the following existing programs: the interstate high cost fund, Long Term Support, and Dial-Equipment-Minute (DEM) weighting programs. *Universal Service Order*, 12 FCC Rcd at 8889, para. 204. The Commission determined that non-rural carriers serving rural, insular, and high cost areas (collectively referred to as "high cost areas") would begin to receive support based on forward-looking economic cost beginning January 1, 1999, while rural carriers serving high cost areas would move to a forward-looking methodology no sooner than January 1, 2001. In the meantime, rural carriers will continue to receive support based on their embedded cost. As encouraged by the Commission in the *Universal Service Order*, the Joint Board has sought nominations for a Rural Task Force that will study the establishment of a forward-looking economic cost mechanism for rural carriers. Federal-State Joint Board on Universal Service, *Public Notice*, FCC 97J–1 (released September 17, 1997). The Commission also determined that it would assess and permit recovery of contributions to high cost support mechanisms based only on interstate revenues because such an approach would continue the historical method for recovering universal service support contributions and promote comity between the federal and state governments. *Universal Service Order*, 12 FCC Rcd at 9198–9203, paras. 824–836. Thus, the Commission concluded that carriers may recover their contributions through interstate access and interexchange revenues. *Universal Service Order*, 12 FCC Rcd at 9199–9200, paras. 829–830. (Price cap LECs may treat their contributions as exogenous changes to their price cap indices. *Access Charge Reform Order*, FCC Rcd at 16147, para. 379.) Finally, the Commission directed that incumbent LECs use high cost support to reduce or satisfy the interstate revenue requirement otherwise collected through interstate access charges. *Access Charge Reform Order*, 12 FCC Rcd at 16148, para. 381. That decision was based on the decision in the *Universal Service Order* to fund only the federal share, or 25 percent, of high cost support from the federal mechanism, discussed below.

In the first step of the Commission's four-step methodology for determining support for non-rural carriers, a forward-looking economic cost mechanism selected by the Commission, in consultation with the Joint Board, will be used to calculate the forward-looking economic cost to non-rural carriers for providing the supported services in high cost areas. (Alternatively, states may submit cost studies that, if consistent with the criteria established by the Commission in the *Universal Service Order*, will be used to compute the forward-looking cost. The Commission will select a forward-looking mechanism by August 1998. *Universal Service Order*, 12 FCC Rcd at 8890, 8910, 8912–16, paras. 206, 245, 248–50.) Second, the Commission will establish nationwide revenue benchmarks calculated on the basis of average revenue per line. Without adopting a precise method for calculating the benchmarks, the Commission stated in the *Universal Service Order* that it appears that the benchmarks should be approximately $31 for residential services and approximately $51 for single-line businesses. *Universal Service Order*, 12 FCC Rcd at 8924, para. 267. The Commission intends to make a formal determination on the appropriate revenue benchmark before it implements a high cost support mechanism based on forward-looking costs. Third, the difference between the forward-looking economic cost and the benchmark will be calculated. Fourth, federal support will be 25 percent of that difference, corresponding to the percentage of loop costs allocated to the interstate jurisdiction. In the *Universal Service Order*, the Commission stated that, once states have taken steps to identify the subsidies implicit in intrastate rates, the Commission may reassess the amount of federal support that is necessary to ensure affordable rates. A number of parties have sought reconsideration of the Commission's decision to initially fund only 25 percent of total high cost support. See, *e.g.*, the petitions filed on July 17, 1997 in CC Docket No. 96–45 by the following parties: Alaska Public Utilities Commission at 5–6; Alaska Telephone Association at 1–2; Arkansas Public Service Commission at 1–3; GVNW Inc. at 2, 8; Rural Telephone Coalition at 3–4; Sprint Corporation at 1–3; United Utilities at 3–4; US WEST at 6; Vermont Public Service Board at 2–3; Western Alliance at 18–19; and Wyoming Public Service Commission at 2. Several parties have also appealed that decision. *Texas Office of Public Utility Counsel et al.* v. *FCC*, No. 97–60421 (5th Cir. filed June 25, 1997). Since the period for filing comments on those reconsideration petitions closed, several parties have proposed specific alternatives to the Commission's 25/75 funding decision. All of the proposals described in this Public Notice will be available on the Commission's web page at http://www.fcc.gov under the heading "Universal Service." The proposals that calculate forward-looking cost use a forward-looking economic cost model. For demonstration purposes, fund estimates are based on two industry-proposed models under consideration by the Commission, the Benchmark Cost Proxy Model (BCPM) and the HAI model (HAI), however the versions of the models and the inputs used may vary across proposals. BCPM was submitted by BellSouth Corporation, BellSouth Telecommunications, Inc., U S WEST, Inc., and Sprint Local Telephone Company. Submission to CC Docket Nos. 96–45 and 97–160 by BCPM proponents, dated December 11, 1997. HAI was submitted by AT&T and MCI. Letter from Richard N. Clarke, AT&T, to Magalie Roman Salas, FCC, dated December 11, 1997. Versions of HAI filed before February 3, 1998, were known as the Hatfield Model.

Proposals to Modify the Commission's Methodology. Upon recommendation by the Joint Board, the Commission adopted a nationwide revenue benchmark based on average revenues per line. Federal-State Joint Board on Universal Service, CC Docket No. 96–45, *Recommended Decision*, 12 FCC Rcd 246 (1996); *Universal Service Order*, 12 FCC Rcd at 8919, para. 259. Subsequent to the Joint Board's recommendation, a majority of state members of that Joint Board endorsed a nationwide benchmark based on the nationwide average cost of service, as determined by a forward-looking cost model. In light of the recommendation of the Joint Board's majority state members and the proposals described in this Public Notice, we seek additional comment regarding the use of a cost-based benchmark.

U S WEST proposes to modify the second step of the Commission's forward-looking methodology for non-rural carriers by creating a second

revenue benchmark (Interstate High Cost Affordability Plan or IHCAP). Exhibit of James D. Smiley, U S WEST, for FCC En Banc Hearing, Universal Service (March 6, 1998) (IHCAP Proposal). U S WEST does not specify different benchmark levels for different types of lines, e.g., residential, single-line business, or multi-line business lines. Under the IHCAP, the federal mechanism would provide support for 25 percent of the costs between a "Primary Benchmark" and a "Super Benchmark," and 100 percent of the costs above the Super Benchmark. For demonstration purposes, the IHCAP assumes a Primary Benchmark of $30 and a Super Benchmark of $50.

An Ad Hoc Working Group convened through the National Association of Regulatory Utility Commissioners proposes an alternative approach for determining and distributing high cost support for both rural and non-rural carriers (Ad Hoc Proposal). Letter from Peter Bluhm, Vermont Public Service Board, to Magalie Roman Salas, FCC, dated April 10, 1998, at att. High Cost Support: An Alternative Distribution Proposal (Ad Hoc Proposal); see also Statement of Thomas Welch, Maine Public Utilities Commission, at March 6, 1998 en banc Commission meeting, transcript at 24–25. In lieu of the forward-looking cost methodology established by the Commission, a draft of the Ad Hoc Proposal filed with the Commission on April 10, 1998 calculates federal support for each state in five steps. First, the Ad Hoc Proposal uses a forward-looking economic cost model selected by the Commission to calculate the average forward-looking cost per line for each state, as well as the average forward-looking cost per line for the nation. The difference between these amounts is calculated for each state and multiplied by a composite state separations factor which the proposal assumes to be 75 percent. Second, the above process is repeated using embedded cost. Specifically, the difference between each state's average embedded cost and 105 percent of the national average embedded cost is calculated for each state and multiplied by a composite state separations factor. Third, the lesser amount resulting from the first two steps is determined. Fourth, a "hold-harmless" level is calculated for each state equal to federal support received by carriers in that state under existing mechanisms. For those states with above-average embedded costs that also currently make a net contribution to federal support mechanisms, the hold-harmless level is increased to ensure that a state's net contribution does not increase. Finally, the federal support for each state is set at either the hold-harmless amount or the amount determined in step 3, whichever is greater. Federal support below the hold-harmless level is distributed by state commissions to carriers that receive support under the current system. Federal support above the hold-harmless level is distributed to other eligible telecommunications carriers (ETCs) according to a state distribution plan reviewed by the Commission. The Ad Hoc Working Group and the Telecommunications Industry Analysis Project (TIAP) also examine possible modifications to the Ad Hoc Proposal.

TIAP proposes four alternatives to the federal forward-looking methodology. One proposal increases federal support to 40 percent of the difference between forward-looking cost and the revenue benchmark (40/60 Proposal). In another proposal, the federal fund supports 100 percent of the difference between the forward-looking economic cost and the benchmark only in one or two of the lowest density zones served by non-rural carriers (Density Zone Proposal). Assuming a $30 benchmark, TIAP estimates that federal support for the lowest density zone calculated by the models (0 to 5 lines per square mile) would result in a fund of $3,965 million, based on BCPM, or $2,410 million, based on HAI. TIAP states that federal support for the two lowest density zones (0 to 5 lines per square mile and 5 to 1000 lines per square mile) "would increase the federal fund by 312% for BCPM and 277% for HAI." TIAP Proposals at 24. A third proposal applies one nationwide surcharge to each telephone number per month (Telephone Number Proposal). Based on the assumption that the federal fund will provide 100 percent of the necessary support, the surcharge is calculated by dividing the fund by the number of phone numbers in service, and by twelve months. A fourth proposal applies one nationwide surcharge to each customer's bill based on a percentage of the total (interstate and intrastate) revenues on the bill (Percentage of Retail Revenues Proposal). Based on the assumption that the federal fund will provide 100 percent of the necessary support, the surcharge is calculated by dividing the fund by total annual retail revenues.

We seek comment on the use of a cost-based benchmark and the proposals of U S WEST, the Ad Hoc Working Group, and TIAP. In addition, we seek comment on how to modify our rules in the event such a proposal were adopted. We also seek comment on the appropriate method and revenues to recover contributions for high cost support.

Implementation of High Cost Support Methodology. In the *Universal Service Order*, the Commission established a forward-looking economic cost methodology for non-rural carriers that will calculate support based on forward-looking cost beginning January 1, 1999. AT&T seeks to delay implementation of the high cost support mechanism for "the Major ILECs * * * at the very least until these companies have opened their markets to robust and widespread local competition." Letter from Brian Masterson, AT&T, to Magalie Roman Salas, FCC, dated March 12, 1998, at att. Presentation of Joel Lubin, AT&T, to March 6, 1998 en banc Commission meeting. In contrast, proponents of the Ad Hoc Proposal support the implementation of their proposal for both rural and non-rural carriers on January 1, 1999. Ad Hoc Proposal at 13. U S WEST recommends that non-rural carriers begin receiving support based on the IHCAP on January 1, 1999, and that a forward-looking methodology that will best meet the needs of rural carriers should be determined after several years of experience of calculating support based on IHCAP for the non-rural carriers. IHCAP Proposal at 4. *See also* letter to William E. Kennard, FCC, from Solomon D. Trujillo, U S WEST, dated April 2, 1998. We seek comment on these implementation proposals. With regard to AT&T's petition, we seek comment on the specific criteria that should trigger implementation of the forward-looking methodology for non-rural carriers.

Finally, in its *Report to Congress*, the Commission commits to completing a reconsideration of the issues raised in this Public Notice prior to implementing the new high cost mechanism for non-rural carriers. *Report to Congress* at para. 224. The Commission specifies that, in the course of reconsidering these issues, it will work closely with the state members of the Joint Board. The Commission attests that, in the past two years in particular, the ideas generated by the formal and informal dialogue among state members of the Joint Board and the FCC Commissioners have facilitated the shared objectives of preserving and advancing universal service as competition develops in local markets.

Final Regulatory Flexibility Analysis

In the *Universal Service Order* we conducted a Final Regulatory Flexibility Analysis (FRFA), Universal Service Order, 12 FCC Rcd at 9219–9260 paras. 870–983, as required by the Regulatory

Flexibility Act (RFA). *See* 5 U.S.C. 604. The RFA (*see* 5 U.S.C. 601 *et seq.*) has been amended by the Contract With America Advancement Act of 1996, Pub. L. 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA). We received no petitions for reconsideration of that FRFA. In this present Public Notice, the Commission promulgates no additional final rules, and our action does not affect the previous analysis. If commenters believe that the proposals discussed in this Public Notice require additional RFA analysis, they should include a discussion of these issues in their comments.

Deadlines and Instructions for Filing Proposals and Comments. Interested parties may file additional proposals regarding the Commission's methodology for determining universal service support for rural and non-rural carriers on or before April 27, 1998. Interested parties may file comments in support of or opposition to the proposals on or before May 15, 1998. Reply comments are due on or before May 29, 1998. All filings should refer to CC Docket Nos. 96–45 and 97–160, and DA 98–715. One original and five copies of all filings must be sent to Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Parties must also send copies to the individuals listed on the attached Service List and to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20554.

List of Subjects in 47 CFR Part 54

Universal service.

Federal Communications Commission.

James D. Schlichting,

Deputy Bureau Chief, Common Carrier Bureau.

Attachment

The Honorable Susan Ness, Chair, Commissioner, Federal Communications Commission, 1919 M Street, N.W., Room 832, Washington, DC 20554

The Honorable Harold Furchtgott-Roth, Commissioner, Federal Communications Commission, 1919 M Street, N.W., Room 802, Washington, DC 20554

The Honorable Gloria Tristani, Commissioner, Federal Communications Commission, 1919 M Street, N.W., Room 826, Washington, DC 20554

The Honorable Julia Johnson, State Chair, Chairman, Florida Public Service Commission, 2540 Shumard Oak Blvd., Gerald Gunter Building Tallahassee, FL 32399–0850

The Honorable David Baker, Commissioner, Georgia Public Service Commission, 244 Washington Street, S.W., Atlanta, GA 30334–5701

The Honorable Laska Schoenfelder, Commissioner, South Dakota Public Utilities Commission, State Capitol, 500 East Capitol Street, Pierre, SD 57501–5070

The Honorable Patrick H. Wood, III, Chairman, Texas Public Utility Commission, 1701 North Congress Ave., Austin, TX 78701

Martha S. Hogerty, Missouri Office of Public Council, 301 West High Street, Suite 250, Truman Building, Jefferson City, MO 65102

Charles Bolle, South Dakota Public Utilities Commission, State Capitol, 500 East Capitol Street, Pierre, SD 57501–5070

Deonne Bruning, Nebraska Public Service Commission, 300 The Atrium, 1200 N Street, P.O. Box 94927, Lincoln, NE 68509–4927

James Casserly, Federal Communications Commission, Commissioner Ness's Office, 1919 M Street, N.W., Room 832, Washington, DC 20554

Rowland Curry, Texas Public Utility Commission, 1701 North Congress Avenue, P.O. Box 13326, Austin, TX 78701

Ann Dean, Maryland Public Service Commission, 16th Floor, 6 Saint Paul Street, Baltimore, MD 21202–6806

Bridget Duff, State Staff Chair, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399–0866

Irene Flannery, Federal Staff Chair, Federal Communications Commission, Accounting and Audits Division, Universal Service Branch, 2100 M Street, N.W., Room 8922, Washington, DC 20554

Paul Gallant, Federal Communications Commission, Commissioner Tristani's Office 1919 M Street, N.W., Room 826, Washington, DC 20554

Lori Kenyon, Alaska Public Utilities Commission, 1016 West Sixth Avenue, Suite 400, Anchorage, AK 99501

Mark Long, Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399–0866

Sandra Makeeff, Iowa Utilities Board, Lucas State Office Building, Des Moines, IA 50319

Kevin Martin, Federal Communications Commission, Commissioner, Furchtgott-Roth's Office, 1919 M Street, N.W., Room 802, Washington, DC 20554

Philip F. McClelland, Pennsylvania Office of Consumer Advocate, 1425 Strawberry Square, Harrisburg, PA 17120

Barry Payne, Indiana Office of the Consumer Counsel, 100 North Senate Avenue, Room N501, Indianapolis, IN 46204–2208

James Bradford Ramsey, National Association of Regulatory Utility Commissioners, 1100 Pennsylvania Ave., N.W., P.O. Box 684, Washington, DC 20044–0684

Brian Roberts, California Public Utilities Commission, 505 Van Ness Avenue, San Francisco, CA 94102

Tiane Sommer, Georgia Public Service Commission, 244 Washington Street, S.W., Atlanta, GA 30334–5701

Sheryl Todd (plus 8 copies), Federal Communications Commission, Accounting and Audits Division, Universal Service Branch, 2100 M Street, N.W., Room 8611, Washington, DC 20554

[FR Doc. 98–11200 Filed 4–27–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 980414096–8096–01; I.D. 032698A]

RIN 0648–AJ99

Fisheries of the Exclusive Economic Zone Off Alaska; Gear Allocation of Shortraker and Rougheye Rockfish in the Aleutian Islands Subarea

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 53 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). Amendment 53 would allocate shortraker rockfish and rougheye rockfish (SR/RE) in the Aleutian Islands subarea (AI) between vessels using trawl gear and vessels using non-trawl gear. This action is necessary to prevent the incidental catch of SR/RE in trawl fisheries from closing non-trawl fisheries and is intended to further the objectives of the FMP.

DATES: Comments must be received at the following address by June 12, 1998.

ADDRESSES: Comments may be sent to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the Environmental Assessment/Regulatory Impact Review prepared for this action may be obtained from the same address or by calling the Alaska Region, NMFS, at 907–586–7228.

FOR FURTHER INFORMATION CONTACT: Alan Kinsolving, 907–586–7228.

SUPPLEMENTARY INFORMATION:

Management Background and Need for Action

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) is managed by NMFS according to the FMP. The FMP

was prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 600 and 679.

The Council has submitted Amendment 53 for Secretarial review and a Notice of Availability of the FMP amendment was published at 63 FR 16223 (April 2, 1998) with comments on the FMP amendment invited through June 1, 1998. All written comments received by June 1, 1998, whether specifically directed to the FMP amendment, the proposed rule, or both, will be considered in the approval/disapproval decision on the FMP amendment.

SR/RE are commercially valuable species. However, amounts available to the commercial fisheries are limited by a relatively small total allowable catch (TAC) amount that is fully needed to support incidental catch or bycatch needs in other groundfish fisheries. As a result, the directed fishery for SR/RE typically is closed at the beginning of the fishing year. Bycatch of SR/RE is highest in the Pacific ocean perch (POP) and Atka mackerel trawl fisheries, but SR/RE also are taken in non-trawl fisheries. Of the total observed SR/RE bycatch from 1995 and 1996, 20.5 percent and 10.1 percent, respectively, were taken in non-trawl fisheries.

In 1997, inseason management of groundfish fisheries in the AI was frustrated by the relatively high bycatch of SR/RE in the POP and Atka mackerel trawl fisheries (781 mt and 161 mt, respectively). This resulted in a total catch that exceeded the acceptable biological catch for SR/RE. Estimates of SR/RE bycatch through mid-1997 indicated that the overfishing level would be reached if fisheries that took these species in the AI were not closed. As a result, NMFS prohibited the retention of Atka mackerel, Pacific cod, and rockfish by vessels using trawl gear and retention of Pacific cod and Greenland turbot by vessels using hook-and-line gear. Had it been necessary, NMFS was prepared to close the Individual Fishing Quota fishery for sablefish to prevent overfishing of SR/RE. Thus, although overfishing concerns stemmed primarily from the bycatch of SR/RE in the POP and Atka mackerel trawl fisheries, non-trawl fisheries that also take incidental amounts of these rockfish were closed, or threatened with closure, to prevent overfishing of SR/RE. These overfishing closures disrupted fishing plans and resulted in a loss of economic opportunity for the trawl and non-trawl fishing industry.

Concerns about the overall management of the SR/RE TAC, as well as trawl and non-trawl industry frustration about actual or potential fishery closures resulting from overfishing concerns, prompted the Council to take several actions at its June and September 1997 meetings. First, the Council recommended that separate maximum retainable bycatch (MRB) percentages be established for SR/RE that would minimize the impact that "topping off" behavior may have on the rate at which the SR/RE TAC is reached. "Topping off" occurs when vessel operators alter fishing operations to catch more SR/RE than they otherwise would so that their retained catch of these species may be maximized under MRB constraints. To minimize this practice, the Council voted to establish a separate MRB percentage for SR/RE of 7 percent relative to certain deepwater species (primarily POP) and 2 percent relative to all other species except arrowtooth flounder, which cannot be used as a species against which SR/RE may be retained. A final rule that implemented the Council's recommended MRB percentages was published in the **Federal Register** on March 31, 1998 (63 FR 15334), effective on April 30, 1998.

In spite of the proposed MRB percentages, overall bycatch amounts of SR/RE still could pose concern because the TAC amounts annually specified for SR/RE are small in comparison to the high volume POP and Atka mackerel trawl fisheries. Consequently, representatives of the trawl and non-trawl industries recommended that the Council adopt an FMP amendment to allocate SR/RE between gear groups. At its February 1998 meeting, the Council approved Amendment 53 to the FMP. After subtraction of reserves, this amendment would allocate 30 percent of the remaining SR/RE TAC to non-trawl gear and 70 percent of the remaining SR/RE TAC to trawl gear.

The industry-recommended allocation of SR/RE TAC between trawl and non-trawl vessels is intended to provide an allocation to the non-trawl fleet in excess of actual relative harvest in recent years. This measure should provide these operations adequate opportunity to fully harvest their allocations of Pacific cod and sablefish. Trawl industry representatives endorsed this split, recognizing that trawl bycatch rates will likely decrease as a result of the proposed reduction in the MRB percentages for SR/RE. A gear allocation based solely on historical catch between gear groups would not adequately account for the fact that non-trawl fisheries have been preempted in the past by closures resulting from trawl bycatch of SR/RE; nor would it conform with an industry negotiated settlement on what an equitable allocation should be. Finally, a gear-specific allocation of SR/RE would allow more effective management of SR/RE in both fisheries and minimize the potential for over harvest of the SR/RE TAC.

Classification

At this time, NMFS has not determined that the FMP amendment this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

NMFS prepared a regulatory impact review that describes the impact this proposed rule, if adopted, would have on small entities. The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant impact on a substantial number of small entities as follows:

The Small Business Administration has defined all fish-harvesting or hatchery businesses that are independently owned and operated, not dominant in their field of operation, with annual receipts not in excess of $3,000,000 as small businesses. Additionally, seafood processors with 500 employees or fewer, wholesale industry members with 100 employees or fewer, not-for-profit enterprises, and government jurisdictions with a population of 50,000 or less are considered small entities. NMFS has determined that a "substantial number" of small entities would generally be 20 percent of the total universe of small entities affected by the regulation. A regulation would have a "significant economic impact" on these small entities if it reduced annual gross revenues by more than 5 percent, increased total costs of production by more than 5 percent, resulted in compliance costs for small entities that are at least 10 percent higher than compliance costs as a percent of sales for large entities, or would be likely to cause approximately 2 percent of the affected small businesses to go out of business. NMFS assumes that catcher vessels participating in the Alaska groundfish fisheries are "small entities" for purposes of the Regulatory Flexibility Act.

In 1996, 213 vessels participated in the Aleutian Islands (AI) groundfish fisheries all of which could be affected by this rule. Of these, 140 vessels (66 percent) were catcher vessels and would be considered the universe of impacted small entities by NMFS. One hundred percent of these small entities

could be affected by this rule. Thus, this rule affects a substantial number of small entities.

There is no directed fishery for SR/RE. These species are taken as bycatch in other BSAI fisheries, including Pacific ocean perch, Atka mackerel, Pacific cod, sablefish, and Greenland turbot. When the SR/RE total allowable catch is taken, the other fisheries that take SR/RE are closed. Trawl vessels generally take more SR/RE than non-trawl fisheries. To prevent trawl fisheries from closing non-trawl fisheries, the proposed rule would allocate 30 percent of SR/RE bycatch to non-trawl vessels.

During 1995 and 1996, non-trawl vessels were responsible for 22 percent and 18 percent respectively of the bycatch of SR/RE. Thus, the proposed allocation is in excess of the actual amount of bycatch in the non-trawl sector and represents a shift of approximately 10 percent from the trawl to the non-trawl sector. During 1996, 93 non-trawl catcher vessels fished in the AI subarea. During 1997, small entities that participated in Aleutian Island non-trawl fisheries landed an estimated $1,618,506 worth of sablefish, rockfish, Greenland turbot and Pacific cod. These vessels would be positively impacted by this rule, because it would be less likely that non-trawl fisheries would be shut down due to SR/RE bycatch concerns.

During 1996, 47 trawl catcher vessels fished in the AI. These vessels could be negatively impacted by the proposed rule to the extent that SR/RE bycatch concerns result in shortened trawl seasons. However, only those fisheries in which SR/RE bycatch is high, primarily Atka mackerel and Pacific ocean perch, would risk early closure. Both of these fisheries are primarily undertaken by catcher/processor vessels (large entities). Between 1992 and 1996, only two catcher vessels (1.4 percent of the affected small entities) participated in the Pacific ocean perch trawl fishery and no catcher boats participated in the Atka mackerel trawl fishery. Both of these vessels would be able to switch to other fisheries in the event that the Pacific ocean perch fishery were shut down due to SR/RE bycatch concerns. NMFS data indicate that these two vessels landed only small amounts of Pacific ocean perch.

The proposed amendment would reduce the amount of SR/RE available to the trawl sector by approximately 10 percent. To the extent that small entities participating in trawl fisheries actually retain SR/RE, this reduction would cause a negative impact. In 1996, small entities retained only 3,300 pounds. of SR/RE. Less than 600 pounds was landed by small entities participating in trawl fisheries. The remaining 2,700 pounds was landed by small entities participating in non-trawl fisheries. If the amount landed by trawl catcher vessels were reduced by 10 percent, a loss of 60 pounds, or $66, could potentially result.

Thus, NMFS is able to conclude that substantially fewer than 20 percent of the affected small entities would experience any negative impact at all, and that in no case would this rule result in a significant impact on a substantial number of small entities.

As a result, a regulatory flexibility analysis was not prepared. A copy of the analysis is available from NMFS (See **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: April 21, 1998.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.* and 3631 *et seq.*

2. In § 679.20, paragraph (a)(9) is redesignated as paragraph (a)(10), and a new paragraph (a)(9) is added to read as follows:

§ 679.20 General limitations.

* * * * *

(a) * * *

(9) *BSAI shortraker rockfish and rougheye rockfish.* After subtraction of reserves, the TAC of Shortraker rockfish and rougheye rockfish specified for the Aleutian Islands subarea will be allocated 30 percent to vessels using non-trawl gear and 70 percent to vessels using trawl gear.

* * * * *

[FR Doc. 98–11242 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 81
Tuesday, April 28, 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

Food and Nutrition Service

Commodity Supplemental Food Program: Elderly Income Guidelines

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the adjusted income guidelines to be used by State agencies in determining the eligibility of elderly persons applying to participate in the Commodity Supplemental Food Program (CSFP). These guidelines are to be used in conjunction with the CSFP regulations under 7 CFR Part 247.

EFFECTIVE DATE: July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Household Programs Branch, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302–1594, or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act.

Paperwork Reduction Act

This notice does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.565 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR Part 3015, Subpart V, 48 FR 29112).

Description

On December 23, 1985, the President signed the Food Security Act of 1985 (Pub. L. 99–198). This legislation amended sections 5(f) and (g) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note) to require that the Secretary permit agencies administering the CSFP to serve elderly persons if such service can be provided without reducing service levels for women, infants, and children. The law also mandates establishment of income eligibility requirements for elderly participation. Prior to enactment of Pub. L. 99–198, elderly participation was restricted by law to three designated pilot projects which served the elderly in accordance with agreements with the Department.

In order to implement the CSFP mandates of Pub. L. 99–198, the Department published an interim rule on September 17, 1986 at 51 FR 32895 and a final rule on February 18, 1988, at 58 FR 8287. These regulations defined "elderly persons" as those who are 60 years or older (7 CFR 247.2). The final rule further stipulates that elderly persons certified on or after September 17, 1986 must have "household income at or below 130 percent of the Federal Poverty Income Guidelines published annually by the Department of Health and Human Services" (7 CFR 247.7(a)(3)).

The Federal Poverty Income Guidelines are revised annually to reflect changes in the Consumer Price Index. The revision for 1998 was published by the Department of Health and Human Services (DHHS) in the **Federal Register** for February 24, 1998 at 63 FR 9235. To establish income limits of 130 percent, the guidelines were multiplied by 1.30 and the results rounded up to the next whole dollar.

At this time, the Department is publishing the income limits of 130 percent of the poverty income guidelines. The table in this notice contains the income limits by household size to be used for elderly certification in the CSFP for the period July 1, 1998–June 30, 1999.

Effective July 1, 1998—June 30, 1999—FNS Income Eligibility Guidelines for the Elderly in CSFP (130 Percent of Poverty Income Guidelines)

Family size	Annual	Month	Week
1	10,465	873	202
2	14,105	1,176	272
3	17,745	1,479	342
4	21,385	1,783	412
5	25,025	2,086	482
6	28,665	2,389	552
7	32,305	2,693	622
8	35,945	2,996	692
For each additional family member add ..	+3,640	+304	+70

Dated: April 20, 1998.

Yvette S. Jackson,

Administrator, Food and Nutrition Service.

[FR Doc. 98–11183 Filed 4–27–98; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Preapplications for Technical Assistance for Rural Transportation Systems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of one single $500,000 grant from the passenger transportation portion of the Rural Business Enterprise Grant (RBEG) Program for Fiscal Year 1998 to be competitively awarded to a qualified national organization.

DATES: The deadline for receipt of a preapplication in the Rural Development State Office is June 15, 1998. Preapplications received at a Rural Development State Office after that date will not be considered for Fiscal Year 1998 funding.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the preapplication package. A list of Rural Development State Offices follows:

Alabama

USDA Rural Development State Office,
Sterling Centre, Suite 601,
4121 Carmichael Road,
Montgomery, AL 36106–3683,
(334) 279–3400

Alaska

USDA Rural Development State Office, 800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 745–2176

Arizona

USDA Rural Development State Office, 3003 North Central Avenue, Suite 900, Phoenix, AZ 85012, (602) 280–8700

Arkansas

USDA Rural Development State Office,
700 West Capitol Ave. Rm. 5411,
Little Rock, AR 72201–3225,
(501) 324–6281

California

USDA Rural Development State Office,
194 West Main Street, Suite F,
Woodland, CA 95695–2915,
(530) 668–2000

Colorado

USDA Rural Development State Office,
655 Parfet Street, Room E–100,
Lakewood, CO 80215,
(303) 236–2801

Delaware and Maryland

USDA Rural Development State Office,
5201 South Dupont Hwy,
P.O. Box 400,
Camden, DE 19934–9998,
(302) 697–4300

Florida/Virgin Islands

USDA Rural Development State Office,
4440 NW 25th Place,
P.O. Box 147010,
Gainesville, FL 32614–7010,
(352) 338–3400

Georgia

USDA Rural Development State Office,
Stephens Federal Building 355 E. Hancock Avenue,
Athens, GA 30601,
(706) 546–2162

Hawaii/Western Pacific Territories

USDA Rural Development State Office,
Federal Building, Room 311, 154 Waianuenue Avenue,
Hilo, HI 96720,
(808) 933–3000

Idaho

USDA Rural Development State Office,
3232 Elder Street,
Boise, ID 83705,
(208) 378–5600

Illinois

USDA Rural Development State Office,
Illini Plaza, Suite 103,
1817 South Neil Street,
Champaign, IL 61820,
(217) 398–5235

Indiana

USDA Rural Development State Office,
5975 Lakeside Boulevard,
Indianapolis, IN 46278,
(317) 290–3100

Iowa

USDA Rural Development State Office,
Federal Building, Room 873,
210 Walnut Street,
Des Moines, IA 50309,
(515) 284–4663

Kansas

USDA Rural Development State Office,
1200 SW Executive Drive,
P.O. Box 4653,
Topeka, KS 66604,
(913) 271–2700

Kentucky

USDA Rural Development State Office,
771 Corporate Drive, Suite 200,
Lexington, KY 40503,
(606) 224–7300

Louisiana

USDA Rural Development State Office
3727 Government Street,
Alexandria, LA 71302,
(318) 473–7920

Maine

USDA Rural Development State Office
444 Stillwater Avenue, Suite 2,
P.O. Box 405,
Bangor, ME 04402–0405,
(207) 990–9106

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office,
451 West Street,
Amherst, MA 01002,
(413) 253–4300

Michigan

USDA Rural Development State Office,
3001 Coolidge Road, Suite 200,
East Lansing, MI 48823,
(517) 337–6635

Minnesota

USDA Rural Development State Office,
410 AgriBank Building,
375 Jackson Street,
St. Paul, MN 55101,
(612) 602–7800

Mississippi

USDA Rural Development State Office,
Federal Building, Suite 831,
100 West Capitol Street,
Jackson, MS 39269,
(601) 965–4316

Missouri

USDA Rural Development State Office,
601 Business Loop 70 West,
Parkade Center, Suite 235,
Columbia, MO 65203,
(573) 876–0976

Montana

USDA Rural Development State Office,
Unit 1, Suite B,
900 Technology Boulevard,
Bozeman, MT 59715,
(406) 585–2580

Nebraska

USDA Rural Development State Office,
Federal Building, Room 152,
100 Centennial Mall N,
Lincoln, NE 68508,
(402) 437–5551

Nevada

USDA Rural Development State Office,
1390 South Curry Street,
Carson City, NV 89703–5405,
(702) 887–1222

New Jersey

USDA Rural Development State Office,
Tarnsfield Plaza, Suite 22,
790 Woodlane Road,
Mt. Holly, NJ 08060,
(609) 265–3600

New Mexico

USDA Rural Development State Office,
6200 Jefferson Street, Room 255,
Albuquerque, NM 87109,
(505) 761–4950

New York

USDA Rural Development State Office,
The Galleries of Syracuse,
441 South Salina Street, Suite 357,
Syracuse, NY 13202,
(315) 477–6400

North Carolina

USDA Rural Development State Office,
4405 Bland Road, Suite 260,
Raleigh, NC 27609,
(919) 873–2000

North Dakota

USDA Rural Development State Office,
Federal Building, Room 208,
220 East Rosser, P.O. Box 1737,
Bismarck, ND 58502,
(701) 250–4781

Ohio

USDA Rural Development State Office,
Federal Building, Room 507,
200 North High Street,
Columbus, OH 43215,
(614) 469–5606

Oklahoma

USDA Rural Development State Office,
100 USDA, Suite 108,
Stillwater, OK 74074,
(405) 742–1000

Oregon

USDA Rural Development State Office,
101 SW Main Street, Suite 1410,
Portland, OR 97204–2333,
(503) 414–3300

Pennsylvania

USDA Rural Development State Office,
1 Credit Union Place, Suite 330,
Harrisburg, PA 17110–2996,
(717) 237–2299

Puerto Rico

USDA Rural Development State Office,
New San Juan Office Building, Rm. 501,
159 Carlos E. Chardon Street,
Hato Rey, PR 00918–5481,
(787) 766–5095

South Carolina

USDA Rural Development State Office,
Strom Thurmond Federal Building,
1835 Assembly Street, Room 1007,
Columbia, SC 29201,
(803) 765–5163

South Dakota

USDA Rural Development State Office,
Federal Building, Room 210,
200 4th Street SW,
Huron, SD 57350,
(605) 352–1100

Tennessee

USDA Rural Development State Office,
3322 West End Avenue, Suite 300,
Nashville, TN 37203–1071,
(615) 783–1300

Texas

USDA Rural Development State Office,
101 South Main, Suite 102,
Temple, TX 76501,
(254) 742–9700

Utah

USDA Rural Development State Office,
Wallace F. Bennett Federal Building,
125 South State Street, Rm. 4311,
P.O. Box 11350,
Salt Lake City, UT 84147–0350,
(801) 524–4063

Vermont/New Hampshire

USDA Rural Development State Office,
City Center, 3rd Floor,
89 Main Street,
Montpelier, VT 05602,
(802) 828–6002

Virginia

USDA Rural Development State Office,
Culpeper Building, Suite 238,
1606 Santa Rosa Road,
Richmond, VA 23229,
(804) 287–1550

Washington

USDA Rural Development State Office,
1835 Blacklake Boulevard, SW., Suite B,
Olympia, WA 98512–5715,
(360) 704–7700

West Virginia

USDA Rural Development State Office,
75 High Street, Room 320,
P.O. Box 678,
Morgantown, WV 26505,
(304) 291–4791

Wisconsin

USDA Rural Development State Office,
4949 Kirschling Court,
Stevens Point, WI 54481,
(715) 345–7600

Wyoming

USDA Rural Development State Office,
100 East B, Federal Building, Rm 1005,
P.O. Box 82602,
Casper, WY 82601,
(307) 261–6300

SUPPLEMENTARY INFORMATION: The passenger transportation portion of the RBEG program is authorized by section 310B(c)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932). The RBEG program is administered on behalf of RBS at the State level by the Rural Development State Offices. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas; the development of training materials; and the provision of necessary training assistance to local officials and agencies in rural areas.

Awards under the RBEG passenger transportation program are made on a competitive basis using specific selection criteria contained in 7 CFR part 1942, subpart G, and in accordance with section 310B(c)(2) of the CONACT. That subpart also contains the information required to be in the preapplication package. Up to 25 Administrator's points may be added to an application's priority score based on the extent to which the application targets assistance to Empowerment Zones/Enterprise Communities, Champion Communities, or other rural communities that have experienced pervasive poverty, out-migration of population, or sudden severe structural changes in the local economy. A project that scores the greatest number of points based on the selection criteria and Administrator's points will be selected. Preapplications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

To be considered "national", a qualified organization is required to provide evidence that it operates in multi-state areas. There is not a requirement to use the grant funds in a multi-state area. Under this program, grants are made to a qualified private nonprofit organization for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Public bodies are not eligible for passenger transportation RBEG grants.

Refer to section 310B(c)(2) (7 U.S.C. 1932) of the CONACT and 7 CFR part 1942 subpart G for the information collection requirements of the RBEG program.

Fiscal Year 1998 Preapplication Submission

Each preapplication received in a Rural Development State Office will be reviewed to determine if the preapplication is consistent with the eligible purposes outlined in 7 CFR part 1942, subpart G, and section 310B(c)(2) of the CONACT. Each selection priorities criterion outlined in 7 CFR part 1942, subpart G, section 1942.305(b)(3), must be addressed in the preapplication. Failure to address any of the criteria will result in a zero-point score for that criterion and will impact the overall evaluation of the preapplication. Copies of 7 CFR part 1942, subpart G, will be provided to any interested applicant making a request to a Rural Development State Office listed in this notice. All projects to receive technical assistance through these passenger transportation grant funds are to be identified when the preapplication is submitted to the Rural Development State Office. Multiple project preapplications must identify each individual project, indicate the amount of funding requested for each individual project, and address the criteria as stated above for each individual project. For a multiple-project preapplication, the average of the individual project scores will be the score for that preapplication.

All eligible preapplications, along with tentative scoring sheets and the Rural Development State Director's recommendation, will be referred to the National Office no later than July 15, 1998, for final scoring and selection for award.

The National Office will score preapplications based on the grant selection criteria and weights contained in 7 CFR part 1942, subpart G, and Administrator's points, and will select an awardee subject to the awardee's satisfactory submission of a formal application and related materials in the manner and time frame established by RBS in accordance with 7 CFR part 1942, subpart G. It is anticipated that the grant awardee will be selected by August 28, 1998. All applicants will be notified by RBS of the Agency decision on the award.

The information collection requirements within this Notice are covered under OMB No. 0570–0022 and 7 CFR part 1942, subpart G.

Dated: April 20, 1998.

Wilbur F. Hagy III,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 98–11182 Filed 4–27–98; 8:45 am]

BILLING CODE 3410–XY–U

DEPARTMENT OF COMMERCE

International Trade Administration

[A–560–803, C–560–804]

Initiation of Antidumping and Countervailing Duty Investigations: Extruded Rubber Thread From Indonesia

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro (antidumping investigation) or Stephanie Moore (countervailing duty investigation), Office of CVD/AD Enforcement VI, International Trade Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone (202) 482–2786.

INITIATION OF INVESTIGATIONS:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 ("the Act") by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351, published in the **Federal Register** on May 19, 1997 (62 FR 27296).

The Petition

On March 31, 1998, the Department of Commerce (the Department) received a petition filed in proper form by North American Rubber Thread Co., Ltd. ("the petitioner"). A supplement to the petition was filed on April 13, 1998.

The petitioner alleges that imports of extruded rubber thread from Indonesia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act and that countervailable subsidies are being provided to producers and/or exporters of extruded rubber thread from Indonesia within the meaning of section 701 of the Act. The petitioner alleges that imports of such unfairly traded (*i.e.*, dumped and subsidized) extruded rubber thread from Indonesia materially injure, or threaten material injury to, an industry in the United States.

The Department finds that the petitioner filed the petition on behalf of the domestic industry because it is an interested party as defined in section 771(9)(C) of the Act and it has demonstrated sufficient industry support (*see* discussion below).

Scope of Investigation

For purposes of the antidumping and countervailing duty investigations, the product covered is extruded rubber thread ("rubber thread") from Indonesia. Rubber thread is defined as vulcanized rubber thread obtained by extrusion of stable or concentrated natural rubber latex of any cross sectional shape, measuring from 0.18 mm, which is 0.007 inches or 140 gauge, to 1.42 mm, which is 0.056 inch or 18 gauge, in diameter.

Rubber thread is currently classified under subheading 4007.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioner to insure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. The petitioner addressed the scope in its March 31, 1998 and April 13, 1998 submissions to the Department. As discussed in the preamble to the new regulations (62 FR at 27323), the Department is setting aside a period for parties to raise issues regarding product coverage. We encourage parties to submit such comments by May 8, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, N.W., Washington, D.C. 20230. This period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determination.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the Government of Indonesia to participate in consultations with respect to the countervailing duty petition. The Government of Indonesia did not avail itself of this opportunity.

Determination of Industry Support for the Petition

Sections 702(b)(1) and 732(b)(1) of the Act require that a petition be filed on behalf of the domestic industry. Sections 702(c)(4)(A) and 732(c)(4)(A) of the Act provide that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The ITC, which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory provision regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct statutory authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the domestic like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines domestic like product as "a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis on the record to find the petition's definition of the domestic like product to be inaccurate. The Department has adopted the domestic like product definition set forth in the petition.

The Department's analysis indicates that the petitioner accounts for at least 25 percent of the total production of the domestic like product. The Department has confirmed the petitioner's assertion

[1] *See Algoma Steel Corp., Ltd.* v. *United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 Fed. Reg. 32376, 32380–81 (July 16, 1991).

that Globe Manufacturing Co. ("Globe") is the only other producer of the domestic like product. On April 17, 1998, Globe submitted a statement of opposition to the petition. However, the Department has determined to disregard Globe's position.

To satisfy the requirements of sections 702 and 732, petitioners and supporters of the petition, in addition to accounting for at least 25 percent of total domestic production, must account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support or opposition to the petition (sections 702(c)(4)(A) and 732(c)(4)(A) of the Act). However, under certain circumstances, the Department must disregard the positions of domestic producers related to foreign producers. In addition, the Department may disregard the position of producers who are importers. (Sections 702(c)(4)(B) and 732(c)(4)(B)of the Act). In this case, the petitioner alleged that Globe is related to an Indonesian producer of subject merchandise and that Globe is also an importer of subject merchandise from Indonesia. Globe's April 17, 1998 submission clarifies the facts alleged by the petitioner. Based on our examination of the information presented by Globe, we have determined that Globe's position should be disregarded for purposes of determining industry support for the petition pursuant to sections 702(c)(4)(B) and 732(c)(4)(B) of the Act. *See* Industry Support section of the AD/CVD Checklist (Public Version) which is on file in room B–099 of the main Commerce building. Therefore, we conclude that the petitioner met the statutory requirement for industry support. Accordingly, the Department determines that the petition is filed on behalf of the domestic industry within the meaning of sections 702(b)(1) and 732(b)(1) of the Act.

Injury Test

Because Indonesia is a "Subsidies Agreement Country" within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to the countervailing duty investigation. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the subject merchandise from Indonesia materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of imports of the subject merchandise being sold at less than fair value and/or benefitting from the bestowal of countervailable subsidies. The allegations of injury and causation are supported by relevant evidence including business proprietary data from the petitioner and the Indonesian export statistics provided in the petition. The Department assessed the allegations and supporting evidence regarding material injury and causation and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* Tab B accompanying the AD/CVD Checklist (public version) which is on file in room B–099 of the main Commerce building.

Allegation of Sales at Less Than Fair Value/Constructed Export Price and Normal Value

The following is a description of the allegation of sales at less than fair value upon which our decision to initiate the antidumping duty investigation is based. Should the need arise to use any of this information in our preliminary or final determinations for purposes of facts available under section 776 of the Act, we may re-examine the information and revise the margin calculations, as appropriate.

The petitioner identified several exporters and producers of rubber thread in Indonesia. The petitioner provided allegations of sales at less than fair value based on constructed export price ("CEP"), within the meaning of section 772(b) of the Act, and based on normal value ("NV"), within the meaning of section 773 of the Act. The petitioner based CEP on price quotes during mid-1997 made by a U.S. importer affiliated with an Indonesian supplier of rubber thread to potential U.S. customers. The petitioner calculated a net U.S. price by subtracting estimates of movement costs and selling expenses. Movement costs (such as international freight, insurance and brokerage) were estimated based on the difference between the CIF values and the U.S. Customs values for rubber thread imports from Indonesia reported in the official U.S. import statistics during 1997. Selling expenses were based on North American's own experience for selling expenses for 1997, since the petitioner was unable to determine what the selling expenses of the Indonesian affiliated importer were.

The petitioner stated that it was unable to determine rubber thread prices or costs in Indonesia and thus used its own cost information, adjusted for known differences, because this was the only information which was reasonably available to the petitioner. The calculation of NV is thus based on constructed value ("CV") using the petitioner's own cost of producing one pound of rubber thread, with adjustments for known differences between its cost experience and those of producers in Indonesia. *See* Tables Accompanying the AD/CVD Checklist (Public Version) which is on file in room B–099 of the main Commerce building.

Constructed value consists of the cost of materials, labor, overhead, general expenses, and profit. The petitioner used its own cost of rubber latex, the primary material input, from mid-1997 and adjusted for potential differences in the precise mixture used by Indonesian producers, the percentage of latex content, scrap, and transportation costs. Other chemical inputs (about 50 differing chemicals and pigments) were provided with adjustments for losses incurred in production. The petitioner did not include the cost of talc, used by most Indonesian producers, within the calculation of material costs, but included these costs as an item of overhead. The petitioner provided information regarding skilled labor costs in Indonesia and, in combination with its labor experience, made adjustments to calculate labor costs in Indonesia. The petitioner describes the cost estimates for Indonesian labor so derived as conservative since the calculation relies on the petitioner's lowest standard cost experience.

The petitioner calculated factory overhead in two different ways. In one example, the petitioner's 1997 costs for overhead as well as electricity were provided and adjusted for Indonesian cost differences. In a second example, the petitioner calculated factory overhead using the Department's "Index of Factor Values for Use in AD Investigations Involving Products from the People's Republic of China" (AD Factor Values) which provided a factory overhead ratio of 25 percent for Indonesia. This ratio was applied to the combined costs of labor and materials (exclusive of talc). A slight but inconsequential increase to the overhead amount results when talc is included within materials prior to application of the overhead ratio.

General expenses were calculated using two similar methodologies. The petitioner provided its own 1997 experience for selling, general and administration expenses (SG&A). In a less conservative approach, the petitioner also provided the ratio reported in the AD Factor Values for

general expenses in Indonesia of 27.5 percent. The specific calculations underlying each of these methodologies are detailed in the tables attached to the AD/CVD checklist. Since the petitioner did not include an amount for profit within its CV calculation, we note that the estimated CV would be higher if an amount for profit were added. In accordance with 773 of the Act, the methodology used by the petitioner to derive NV comports with Department practice and petition requirements.

The comparisons of NV to net U.S. prices result in estimated dumping margins that range from 0.81 percent (highest CEP compared to lowest NV estimate) to 62 percent (lowest CEP to highest NV estimate).

Fair Value Comparisons

Based on the data provided by the petitioner, there is reason to believe that imports of rubber thread from Indonesia are being, or are likely to be, sold in the United States at less than fair value.

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to petitioner supporting the allegations. We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in Indonesia.

1. Export Financing
2. Import Duty Exemptions on Capital Equipment
3. Corporate Income Tax Holidays
4. Investment Credit for the Expansion of the Rubber Industry

Initiation of Antidumping and Countervailing Duty Investigations

The Department has examined the petition on rubber thread from Indonesia and has found that it complies with the requirements of sections 702(b) and 732(b) of the Act. Therefore, in accordance with sections 702(b) and 732(b), we are initiating antidumping and countervailing duty investigations to determine whether manufacturers, producers, or exporters of rubber thread from Indonesia are being, or are likely to be, sold in the United States at less than fair value and whether manufacturers, producers or exporters of rubber thread from Indonesia received subsidies. *See* Tab B accompanying the AD/CVD Checklist (public version) which is on file in room B–099 of the main Commerce building. Unless the relevant deadline is extended, we will make our preliminary determinations for the countervailing duty investigation no later than June 24, 1998 and for the antidumping duty investigation no later than September 8, 1998.

Distribution of Copies of the Petitions

In accordance with sections 702(b)(4)(A)(i) and 732(b)(3)(A) of the Act, copies of the public version of the petition have been provided to the representatives of the Government of Indonesia. We will attempt to provide copies of the public version of the petition to all exporters named in the petition, as provided for in section 351.203(c)(2) of the Department's regulations.

ITC Notification

Pursuant to sections 702(d) and 732(d) of the Act, we have notified the ITC of these initiations.

Preliminary Determinations by the ITC

The ITC will determine by May 15, 1998, whether there is a reasonable indication that an industry in the United States is being materially injured, or is threatened with material injury, by reason of imports from Indonesia of rubber thread. A negative ITC determination will result in the investigation being terminated; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: April 20, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–11274 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip From Canada; Termination of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On October 29, 1997, the Department of Commerce published in the **Federal Register** a notice of termination of the administrative review of brass sheet and strip from Canada covering imports of subject merchandise for the period January 1, 1993 through December 31, 1993. Due to a procedural oversight by the Department of Commerce, the signature date of this notice of termination, October 21, 1997, was one day prior to the date of the respondent's formal written request for termination of the 1993 review, which was submitted to the Department of Commerce on October 22, 1997. In light of this procedural error, the Department of Commerce rescinded its termination of this review and reopened the administrative record of this proceeding for comments by interested parties on the question of termination of this review. After careful review of the comments submitted by interested parties, the Department of Commerce decided that this review should be terminated and hereby terminates this review.

EFFECTIVE DATE: April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas Futtner, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, *telephone:* (202) 482–4474 or (202) 482–3814, respectively.

Applicable Statute and Regulations: Unless otherwise stated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty order on brass sheet and strip from Canada on January 12, 1987 (52 FR 1217). On January 5, 1994, the Department published in the **Federal Register** a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on brass sheet and strip from Canada (59 FR 564). On January 21, 1994, a manufacturer/exporter, Wolverine Tube (Canada) Inc., (Wolverine) requested an administrative review of its exports of the subject merchandise to the United States for the period of review (POR) January 1, 1993, through December 31, 1993. In accordance with 19 CFR 353.22(c), we initiated the review on February 17, 1994 (59 FR 7979). Wolverine was the only interested party to request this review. On or about October 17, 1997, Wolverine notified the Department by telephone of its

intent to request termination of this review. The Department then prepared a notice of termination for the **Federal Register** pending receipt of Wolverine's formal written request. This written request was dated and received by the Department on October 22, 1997. The notice of termination was published in the **Federal Register** on October 29, 1997 (62 FR 56150). However, due to a procedural oversight, the signature date of the notice was October 21, 1997, one day prior to actual receipt of the written request for termination. In the interest of procedural integrity, the Department rescinded its termination of this review in order to afford interested parties the opportunity to comment as to whether this review should have been terminated. Hussey Copper, Ltd.; The Miller Company; Olin Corporation; Revere Copper Products, Inc.; International Association of Machinists and Aerospace Workers; International Union, Allied Industrial Workers of America (AFL–CIO); Mechanics Educational Society of America, and United Steelworkers of America (AFL–CIO) (collectively, the petitioner) and the respondent both submitted comments and rebuttal comments within the time limits specified by the Department.

Comments

On January 16, 1998, Wolverine and the petitioner submitted comments regarding the issue of termination. On January 27, 1998, Wolverine and the petitioner submitted rebuttal comments with respect to the January 16, 1998, comments. The following is a summary and the Department's position on each of these comments.

Comment 1: 1993 Review Virtually Completed, Completion Would Not Affect the Timing of the 1996 Review. Wolverine claims that completing the 1993 review would further delay completion of the 1996 review. It further notes that termination would reduce the Department's administrative burden. The petitioner claims that the 1993 review was virtually completed and that the Department's resources would not be unduly taxed by completing the review. The petitioner further notes that completing the 1993 review would not cause additional delays or strain the Department's resources in completion of the 1996 review.

Department Position: Although the review process reached the preliminary results stage, many critical steps such as arriving at departmental positions and drafting a final analysis, remained to be completed. In addition, as in any review, the potential for allegations of clerical errors as well as the potential for litigation and remands has to be considered a part of the administrative burden. Thus, the petitioner is incorrect in claiming that the review was essentially completed. Notwithstanding this fact, the Department does not believe that completion of the 1993 review would necessarily delay the completion of the 1996 review. However, for the reasons stated above, we determined that it was not required to complete the 1993 review, and that doing so would not have any affect on our determination with respect to the 1996 review.

Comment 2: 1993 Review Result Could Affect Outcome of 1996 Review With Regard to Revocation. The petitioner asserts that the final outcome of the 1993 review could affect the Department's pending determination with respect to revocation in the 1996 review. The petitioner asserts that completion of this review is necessary to support a historical record of dumping spanning beyond the three years of zero or de minimis margins on which the revocation request is based. The petitioner argues that an analysis of such an expanded time-frame would demonstrate that Wolverine cannot ship to the U.S. in significant commercial quantities without dumping. Wolverine notes that although the petitioner claims that the 1993 review could affect the outcome of the 1996 review, the Department bases each of its determinations on the factual record of the relevant segment of the proceeding.

Department Position: The Department cannot find merit in the petitioner's assertion, which was not supported by any compelling argument and/or factual information. The petitioner has not established on the record of this 1993 review the precise manner in which the completed results of this review would potentially have a bearing on the outcome of the revocation and other issues before the Department with respect to the 1996 review. Even were the record of the 1993 review to show a marked decline in U.S. shipments as Wolverine's dumping margins became zero or de minimis, this by itself would not necessarily lead the Department to determine that these shipments were not at less than commercial quantities, and would not in itself support denial of revocation as requested in the 1996 review.

Comment 3: Department Obligated to Consider Petitioner's Interests. The petitioner claims that the Department is obligated to consider the interests of the domestic industry, noting that the primary purpose of the antidumping statute is to protect domestic industry. Wolverine asserts that the petitioner's claim that the Department is obligated to consider the interests of the domestic industry is not based on any authority, law, or regulation. Wolverine asserts that it was the only party to request the review and had subsequently requested termination. Wolverine states that it is the only party affected by termination and that the petitioner has no legal basis on which to object to termination. Finally, Wolverine notes that the petitioner was served by hand a copy of the request for termination on October 22, 1997, but did not object to termination until after publication of the termination notice in the **Federal Register,** seven days later.

Department Position: The fact that Wolverine was the only party to request the review has not been disputed and it has been the Department's practice to routinely terminate reviews at the request of an interested party when no other interested party has requested the review. In this case, Wolverine was the only party to request the review and subsequently requested that the review be terminated. Although Wolverine's request to terminate this review was submitted after the 90-day time limit for termination provided for at section 353.22(a)(5) of our regulations, that provision also states that the Secretary may extend this time limit if the Secretary determines it is reasonable to do so. In fact, it may be considered that the domestic industry's interest is being served in that upon termination of this review, liquidation of affected entries will be at 21.39 percent, the cash deposit rate in effect at the time of entry, whereas the dumping margin preliminarily determined in this review was 1.39 percent.

Comment 4: Department Not Obligated to Notify Petitioner of Termination. Wolverine notes that the Department was not required by its regulations to consult with interested parties or consider comments in its decision to terminate the review.

Department Position: We agree with Wolverine. The only party to request this review, Wolverine, subsequently requested that we terminate this review. In addition, the petitioner was duly served with a copy of the respondent's request to terminate this review on October 22, 1997, in advance of publication of our original termination notice on October 29, 1997. Upon the petitioner's October 30, 1997, objection to termination, although the Department was under no legal obligation to do so, in the interest of procedural integrity, the Department reopened the record of this review after the original termination to consider interested party comments regarding termination.

Termination

The Department has considered all comments submitted by interested parties and has determined that this review should be terminated. Because Wolverine was the only party to request this review, and subsequently withdrew its request, and because we find that there are no other compelling reasons to continue this review, we are terminating this review.

The Department shall instruct the Customs Service to liquidate all appropriate entries. Shipments entered, or withdrawn from warehouse, for consumption during the January 1, 1993 through December 31, 1993, POR will be liquidated at the cash deposit rate in effect at the time of entry. Insofar as the final results for the more current POR, January 1, 1995, through December 31, 1995, were published prior to this termination notice, the cash deposit instructions contained in the notice covering the January 1, 1995 through December 31, 1995, POR will continue to apply to all shipments to the United States of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 8, 1997 (the date of publication of the final results of review covering the 1995 POR).

This notice also serves as final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during the review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of thier responsibility concerning disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely within notification of the return or destruction of APO materials is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with section 751(a)(1) of the Act and 19 CFR 353.22(a)(5).

Dated: April 15, 1998.

Maria Harris Tildon,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 98–11277 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–351–817)

Certain Cut-to-length Carbon Steel Plate From Brazil; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit of the preliminary results of the antidumping duty administrative review of Certain Cut-to-length Carbon Steel Plate From Brazil. This review covers the period August 1, 1996 through July 31, 1997.

EFFECTIVE DATE: April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Helen Kramer or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0405 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Due to the time required to verify whether shipments of merchandise covered by the antidumping order occurred during the period of review, it is not practicable to complete this review within the original time limit. *See* Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III, to Robert S. LaRussa, Assistant Secretary for Import Administration, dated April 21,1998. Therefore, the Department is extending the time limit for completion of the preliminary results until August 31, 1998, in accordance with Section 751(a)(3)(A) of the Trade and Tariff Act of 1930, as amended by the Uruguay Round Agreements Act of 1994. The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (19 U.S.C. § 1675 (a)(3)(A)).

Dated: April 21, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 98–11276 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–357–810]

Oil Country Tubular Goods From Argentina; Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

ACTION: Extension of time limit for preliminary results of antidumping duty administrative review of oil country tubular goods from Argentina.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the second antidumping duty administrative review of the antidumping order on oil country tubular goods ("OCTG") from Argentina. This review covers Siderca S.A.I.C., an Argentine producer and exporter of OCTG, and Siderca Corporation, a U.S. importer and reseller of such merchandise, collectively referred to as "Siderca." The period of review is August 1, 1996 through July 31, 1997.

EFFECTIVE DATE: April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Alain Letort or John R. Kugelman, AD/CVD Enforcement Group III "Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230, telephone (202) 482–4243 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are references to the provisions codified at 19 CFR Part 351.101, *et seq.* (62 FR 27296—May 19, 1997).

Extension of Preliminary Results

The Department initiated this administrative review on September 25, 1997 (62 FR 50292). Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the

statutory time limit of 365 days. Because of the complexity and novelty of certain issues in this case, it is not practicable to complete this review within the statutory time limit of 365 days. The Department, therefore, is extending the time limit for the preliminary results of the aforementioned review to August 31, 1998. *See* memorandum from Joseph A. Spetrini to Robert S. LaRussa, which is on file in Room B–099 at the Department's headquarters. The deadline for the final results of this review will continue to be 90 days after publication of the preliminary results.

This extension of time limit is in accordance with section 751(a)(3)(A) of the Act and section 351.213(h)(2) of the Department's regulations.

Dated: April 22, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary AD/CVD Enforcement Group III.

[FR Doc. 98–11273 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–423–809, C–475–823, C–580–832, and C–791–806]

Initiation of Countervailing Duty Investigations: Stainless Steel Plate in Coils From Belgium, Italy, the Republic of Korea, and the Republic of South Africa

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 28, 1998.

FOR FURTHER INFORMATION CONTACT: Zak Smith (Belgium), at (202) 482–1279; Cynthia Thirumalai (Italy), at (202) 482–4087; Christopher Cassel (the Republic of Korea), at (202) 482–4847; and Dana Mermelstein (the Republic of South Africa), at (202) 482–0984, Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

INITIATION OF INVESTIGATIONS:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations published in the Federal Register on May 19, 1997 (62 FR 27296).

The Petition

On March 31, 1998, the Department of Commerce (the Department) received a petition filed in proper form by or on behalf of Armco Inc., J&L Specialty Steel, Inc., Lukens Inc., United Steel Workers of America, AFL–CIO/CLC, Butler Armco Independent Union, and Zanesville Armco Independent Organization, Inc. (the petitioners). Armco Inc., J&L Specialty Steel, Inc., and Lukens Inc. are U.S. producers of stainless steel plate in coils (plate in coils). J&L Specialty Steel, Inc. is not a petitioner to the countervailing duty investigation involving Belgium. Supplements to the petition were filed on April 14, 15, 16, 17, and 20, 1998.

In accordance with section 702(b)(1) of the Act, petitioners allege that manufacturers, producers, or exporters of the subject merchandise in Belgium, Italy, the Republic of Korea (Korea), and the Republic of South Africa (South Africa) receive countervailable subsidies within the meaning of section 701 of the Act.

The petitioners state that they have standing to file the petition because they are interested parties, as defined under sections 771(9)(c) and (d) of the Act.

Scope of the Investigations

For purposes of these investigations, the product covered is certain stainless steel plate in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject plate products are flat-rolled products, 254 mm or over in width and 4.75 mm or more in thickness, in coils, and annealed or otherwise heat treated and pickled or otherwise descaled. The subject plate may also be further processed (*e.g.*, cold-rolled, polished, etc.) provided that it maintains the specified dimensions of plate following such processing. Excluded from the scope of this petition are the following: (1) plate not in coils, (2) plate that is not annealed or otherwise heat treated and pickled or otherwise descaled, (3) sheet and strip, and (4) flat bars.

The merchandise subject to this investigation is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTS) at subheadings: 7219.11.00.30, 7219.11.00.60, 7219.12.00.05, 7219.12.00.20, 7219.12.00.25, 7219.12.00.50, 7219.12.00.55, 7219.12.00.65, 7219.12.00.70, 7219.12.00.80, 7219.31.00.10, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.11.00.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under investigation is dispositive.

During our review of the petition, we discussed the scope with the petitioners to insure that the scope in the petition accurately reflects the product for which the domestic industry is seeking relief. Moreover, as we discussed in the preamble to the new regulations (62 FR 27323), we are setting aside a period for parties to raise issues regarding product coverage. The Department encourages all parties to submit such comments by May 8, 1998. Comments should be addressed to Import Administration's Central Records Unit at Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and consult with parties prior to the issuance of the preliminary determinations.

Consultations

Pursuant to section 702(b)(4)(A)(ii) of the Act, the Department invited representatives of the relevant foreign governments for consultations with respect to the petition filed. On April 15, 1998, the Department held consultations with representatives of the governments of Italy and Belgium, and the European Commission (EC). On April 19, 1998, consultations were held with representatives of the government of South Africa. *See* the April 20, 1998, memoranda to the file regarding these consultations (public documents on file in the Central Records Unit of the Department of Commerce, Room B–099).

Determination of Industry Support for the Petition

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (1) at least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that

portion of the industry expressing support for, or opposition to, the petition.

Section 771(4)(A) of the Act defines the "industry" as the producers of a domestic like product. Thus, to determine whether the petition has the requisite industry support, the statute directs the Department to look to producers and workers who account for production of the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether "the domestic industry" has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition of domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[1]

Section 771(10) of the Act defines domestic like product as "a product that is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title." Thus, the reference point from which the domestic like product analysis begins is "the article subject to an investigation," *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

The domestic like product referred to in the petition is the single domestic like product defined in the "Scope of Investigation" section, above. The Department has no basis to find the petition's definition of the domestic like product to be inaccurate. The Department has, therefore, adopted the domestic like product definition set forth in the petition. For these investigations, petitioners have established a level of support for the petition commensurate with the statutory requirements. Accordingly, the Department determines that the petition was filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act. *See* the April 20, 1998, memoranda to the file regarding industry support (public versions of the documents on file in the Central Records Unit of the Department of Commerce, Room B–099).

Injury Test

Because Belgium, Italy, Korea, and South Africa are "Subsidies Agreement Countries" within the meaning of section 701(b) of the Act, section 701(a)(2) applies to these investigations. Accordingly, the U.S. International Trade Commission (ITC) must determine whether imports of the subject merchandise from these countries materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petition alleges that the U.S. industry producing the domestic like product is being materially injured, and is threatened with material injury, by reason of the individual and cumulated subsidized imports of the subject merchandise. The allegations of injury and causation are supported by relevant evidence including business proprietary data from the petitioning firms and U.S. Customs import data. The Department assessed the allegations and supporting evidence regarding material injury and causation, and determined that these allegations are sufficiently supported by accurate and adequate evidence and meet the statutory requirements for initiation. *See* the April 20, 1998, memoranda to the file regarding the initiation of these investigations (public documents on file in the Central Records Unit of the Department of Commerce, Room B–009).

Allegations of Subsidies

Section 702(b) of the Act requires the Department to initiate a countervailing duty proceeding whenever an interested party files a petition, on behalf of an industry, that (1) alleges the elements necessary for an imposition of a duty under section 701(a), and (2) is accompanied by information reasonably available to petitioners supporting the allegations.

Initiation of Countervailing Duty Investigations

The Department has examined the petition on plate in coils from Belgium, Italy, Korea, and South Africa and found that it complies with the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act, we are initiating countervailing duty investigations to determine whether manufacturers, producers, or exporters of plate in coils from these countries receive subsidies. *See* the April 20, 1998, memoranda to the file regarding the initiation of these investigations (public documents on file in the Central Records Unit of the Department of Commerce, Room B–099).

A. Belgium

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in Belgium:

1. *1993 Expansion Grant*
2. *1994 Environmental Grant*
3. *"Investment and Interest" Subsidies*
4. *Funding for Early Retirement*
5. *Societe Nationale de Credite a l'Industrie (SNCI) Loans*
6. *Belgian Industrial Finance Company (Belfin) Loans*
7. *Societe Nationale pour la Reconstruction des Secteurs Nationaux (SNSN) Advances*
8. *Benefits pursuant to the Economic Expansion Law of 1970 (1970 Law)*
   a. Grants and Interest Rebates
   b. Corporate Income Tax Exemption
   c. Accelerated Depreciation
   d. Real Estate Tax Exemption
   e. Capital Registration Tax Exemption
   f. Government Loan Guarantees
   g. Employment "Premiums'
9. *Industrial Reconversion Zones (Inclusive of the "Herstelwet" Law)*
10. *Special Depreciation Allowance*
11. *Preferential Short-Term Export Credit*
12. *Interest Rate Rebates*
13. *Subsidies Provided to Sidmar that are Attributable to ALZ N.V. (ALZ)*
    a. Assumption of Sidmar's Debt
    b. SidInvest
    c. Water Purification Grants
14. *1984 Debt to Equity Conversion and Purchase of ALZ Shares*

European Commission Programs

1. *ECSC Article 54 Loans & Interest Rebates*
2. *ECSC Article 56 Conversion Loans, Interest Rebates & Redeployment Aid*
3. *European Social Fund*
4. *European Regional Development Fund*
5. *Resider II Program*

We are not including in our investigation at this time the following programs alleged to be benefitting producers and exporters of the subject merchandise in Belgium:

1. *"Employment Zone" grants and tax exemptions.* Petitioners allege that ALZ may have received non-recurring grants and tax exemptions under this program. Several Royal Decrees established "employment zones" to provide benefits to industries located in certain

[1] *See Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 642–44 (CIT 1988); *High Information Content Flat Panel Displays and Display Glass Therefor from Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

depressed regions. The evidence provided by petitioners does not indicate that ALZ is eligible to receive benefits from this program because it is not located in an employment zone. Therefore, we are not including this program in our investigation.

2. *Genk Plant capital investment by the Government of Belgium.* Petitioners allege that ALZ received a countervailable benefit from a "capital injection" made by state-owned investment companies and a partially state-owned steel firm. Petitioners allege that the benefit takes the form of either a grant, an equity infusion, or an interest-free loan under the Industrial Reconversion Zones mentioned above. The evidence provided by petitioner does not support the allegation that this capital injection was a grant. Moreover, the petitioners have not provided sufficient information indicating that any ALZ stock purchased was done so inconsistent with the usual investment practice of a private investor. To the extent that any government assistance received may constitute an interest-free loan under the Industrial Reconversion program, we will examine such assistance in the context of investigating that program.

B. Italy

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in Italy:

Government of Italy Programs

1. *Law 796/76: Exchange Rate Guarantee Program*
2. *Benefits Associated with the 1988–1990 Restructuring*
3. *Pre-Privatization Employment Benefits*
4. *Law 120/89 Recovery Plan for the Steel Industry*
5. *Law 181/89 Worker Adjustment/ Redevelopment Assistance*
6. *Law 345/92 Benefits for Early Retirement*
7. *Law 706/85 Grants for Capacity Reduction*
8. *Law 488/92 Aid to Depressed Areas*
9. *Law 46/82 Assistance for Capacity Reduction*
10. *Working Capital Grants to ILVA, S.p.A. (ILVA)*
11. *ILVA Restructuring and Liquidation Grant*
12. *1994 Debt Payment Assistance by the Instituto per la Riscostruzione Industriale (IRI)*
13. *Loan to KAI for purchase of Acciai Speciali Terni S.p.A. (AST)*
14. *Debt Forgiveness: 1981 Restructuring Plan*
15. *Debt Forgiveness: Finsider-to-ILVA Restructuring*
16. *Debt Forgiveness: ILVA-to-AST Restructuring*
17. *Law 675/77*
    a. Mortgage Loans
    b. Interest Contributions on IRI Loans
    c. Personnel Retraining Aid
    d. VAT Reductions
18. *Law 193/84*
    a. Interest Payments
    b. Closure Assistance
    c. Early Retirement Benefits
19. *Law 394/81 Export Marketing Grants and Loans*
20. *Equity Infusions from 1978 through 1992*
21. *Uncreditworthiness for 1977 through 1997*
22. *22. Law 341/95 and Circolare 50175/95*

European Commission Programs

1. *EU Subsidy to AST to Construct a Mill*
2. *ECSC Article 54 Loans & Interest Rebates*
3. *ECSC Article 56 Conversion Loans, Interest Rebates & Redeployment Aid*
4. *European Social Fund*
5. *European Regional Development Fund*
6. *Resider II Program (and successor programs)*

We are not including in our investigation the following programs alleged to be benefitting producers and exporters of the subject merchandise in Italy:

1. *Decree Law 357/91.* A translated portion of Law 357/91 provided by petitioners states that: [F]unds cannot be granted for investments concerning the following sections and production activities: (A) steel production as cited in Attachment 1 of the ECSC treaty.

Petitioners have provided no information showing that stainless steel plate production, or any part of its production process, does not come under Attachment 1 of the ECSC treaty. Other sections of Law 357/91 state that eligible firms must be small-or medium-sized with a maximum number of employees of 250—a number that is far less than the 3,600 employees of the Italian producer (*see* p. 5, Exhibit D, April 15, 1998, submission by petitioners). In addition, Article 1, par. 1 of Law 357/91 states that eligible grants are to cover costs "as long as these costs are not related to iron and steel industries." Contrary to petitioners' assertions that some benefits (*e.g.*, interest subsidies under Article 6) may have different eligibility requirements, information on the record indicates that the requirements described above apply to all benefits. Based on the foregoing, we are not including Law 357/91 benefits in our investigation.

2. *Law 481/94 Funds for Capacity Reduction in the Metals Industry.* In their submission of April 17, 1998, petitioners withdrew their allegation that AST may have benefitted from assistance under Law 481/94 stating, "it now appears that AST's production of subject merchandise did not benefit from this program."

3. *Law 223/91 Benefits for Early Retirement.* In the *Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel From Italy*, 59 FR 18357 (April 18, 1994), the Department determined that benefits provided under Law 223/91, were not countervailable. Petitioners have not provided any new information which warrants a reexamination of that determination. Thus, we are not including this program in our investigation.

C. Republic of Korea

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in Korea:

1. *Pre-1992 Government of Korea Direction of Credit*
2. *Post-1992 Government of Korea Direction of Credit*
3. *Tax Incentives for Highly-Advanced Technology Businesses*
4. *Provision of Electricity at Less Than Adequate Remuneration*
5. *Reserve for Investment*
6. *Export Facility Loans*
7. *Reserve for Export Loss Under the Tax Exemption and Reduction Control Act (TERCL)*
8. *Reserve for Overseas Market Development Under the Tax Exemption and Reduction Control Act (TERCL)*
9. *Unlimited Deduction of Overseas Entertainment Expenses*
10. *Short-Term Export Financing*
11. *Korean Export-Import Bank (EXIMBANK) Loans*
12. *Export Insurance Rates Provided by the Korean Export Insurance Corporation*
13. *Excessive Duty Drawback*
14. *Kwangyang Bay Project*

We are not including in our investigation the following program alleged to be benefitting producers and exporters of the subject merchandise in Korea:

Special Depreciation of Assets

Petitioners allege that this program is contingent upon exports. In support of

their allegation, petitioners submitted a copy of Pohang Iron & Steel Company's (POSCO) (a named producer/exporter of the subject merchandise) 1993 Annual Report. Because POSCO's 1993 Annual Report documents a line item for "special depreciation of assets," petitioners assert that POSCO may have benefitted from this "export-oriented" subsidy program. However, the relevant note in POSCO's 1993 Annual Report states that the special depreciation is for "facilities and equipment which operate longer than a standard eight-hour work day." The note further indicates that the "special depreciation will no longer be allowed for financial reporting purposes, commencing in 1994." Therefore, it does not appear that the special depreciation is contingent on exportation. Moreover, petitioners have not provided any evidence indicating POSCO received the special depreciation after 1993. Therefore, we are not including this program in our investigation.

D. Republic of South Africa

We are including in our investigation the following programs alleged in the petition to have provided subsidies to producers and exporters of the subject merchandise in South Africa:

1. *IDC Capital Infusions in Columbus Stainless Steel Co., Ltd.*
2. *Tax Benefits Under Section 37E of the Income Tax Act*
3. *Export Assistance Under the Export Marketing Assistance and the Export Marketing and Investment Assistance Programs*
4. *Regional Industrial Development Program (RIDP)*
5. *Competitiveness Fund*
6. *Low Interest Rate Finance for the Promotion of Exports (LIFE) Scheme*
7. *Low Interest Rate Scheme for the Promotion of Exports*
8. *Import Financing through Impofin, Ltd.*

We are not including in our investigation the following programs alleged to be benefitting producers and exporters of the subject merchandise in South Africa:

1. Export finance guarantee program. According to a paper provided in the petition, published by the Industrial Development Corporation of South Africa Ltd. (IDC) and entitled *Measures and Policies Impacting on South African Industry*, this program is designed to help small- and medium-sized businesses which need financial assistance to execute export orders. In light of information in the petition indicating that stainless steel producers are large enterprises, petitioners have not provided any information to show that the producers/exporters of the subject merchandise would be eligible for this program. On this basis, we are not including this program in our investigation.

2. Export marketing allowance. The Department examined this program in the 1991 administrative review of the countervailing duty order on ferrochrome from South Africa (as Category D of the Export Incentive Program). *See Ferrochrome from South Africa; Final Results of Countervailing Duty Administrative Review*, 60 FR 7043 (February 6, 1995); *Ferrochrome from South Africa; Preliminary Results of Countervailing Duty Administrative Review*, 58 FR 59988 (November 12, 1993). In that review, the Department found that companies could deduct from taxable income marketing expenses incurred until March 31, 1992, the date the program was terminated. The petition contains no evidence that the program has been reinstated and provides no reason to believe that any benefits obtained prior to March 31, 1992, could remain outstanding through 1997, the period of investigation. On this basis, we are not including this program in our investigation.

3. Export credit insurance. Petitioners have provided information indicating the existence of an insurance program for the coverage of exporters' risk of losses resulting from failure to receive payments. The program is administered by the Credit Guarantee Insurance Corporation of South Africa Limited (CGIC) on behalf of the Department Trade and Industry (DTI). Petitioners have not provided any information indicating that the CGIC's premiums are inadequate to cover the long-term operating costs of the program. Therefore, we are not including this program in our investigation.

4. Multi-shift scheme. According to IDC and DTI publications provided in the petition, this scheme makes available low interest financing to fund the increase in working capital which becomes necessary as a result of adding a production shift. Petitioners allege that this program may be contingent upon exportation. However, the descriptions of the Multi-Shift Scheme itself do not indicate that the scheme is contingent in any way upon exportation. In addition, petitioners have not provided any information indicating that this scheme may be otherwise limited to a specific enterprise or industry, or group thereof. On this basis, we are not including this program in our investigation.

5. Low interest rates for the promotion of employment scheme. According to an IDC publication provided in the petition, this scheme makes available low interest financing to help companies add production capacity that will increase employment opportunities. Petitioners allege that this program may be contingent upon exportation. The description of this scheme itself does not indicate that this scheme is contingent in any way upon exportation. In addition, petitioners have not provided any information indicating that this scheme may be otherwise limited to a specific enterprise or industry, or group thereof. On this basis, we are not including this program in our investigation.

6. Manufacturing development program (MDP). According to information provided in the petition (an IDC paper titled *Measures and Policies Impacting on South African Industry*), the MDP provides for "an accelerated depreciation allowance for the expansion or establishment of small, medium and large enterprises * * * on plant and equipment brought into use between July 1, 1996, and September 30, 1999." The description of the program itself does not indicate that the MDP is contingent in any way upon exportation. In addition, petitioners have not provided any information indicating that this program may be otherwise limited to a specific enterprise or industry, or group thereof. Thus, we are not including this program in our investigation.

7. Reduced rail rates. Petitioners provided a 1994 Price Waterhouse publication entitled *Doing Business in South Africa* which indicates that the Railway Administration may, under certain circumstances, provide reduced rail rates on commodities destined for overseas. In the 1982 certain steel investigation from South Africa, the Department found that countervailable benefits due to reduced rail rates to exporters had ceased, effective April 1, 1982. *See Final Affirmative Countervailing Duty Determination and Countervailing Duty Orders; Certain Steel Products From South Africa*, 47 FR 39379, 39380 (September 7, 1982). In the 1993 certain steel investigation from South Africa, the Department did not initiate an investigation of the rail rates in South Africa. *See Initiation of Countervailing Duty Investigation: Certain Carbon Steel Flat Products From South Africa*, 58 FR 32515 (June 10, 1993) (*1993 Initiation*). The information examined in that investigation is the same type of information submitted in this petition, and petitioners have not provided any additional information that would warrant a reconsideration of the Department's previous decisions.

Thus, we are not including this program in our investigation.

8. Reduced electricity rates. Petitioners provided a 1994 Price Waterhouse publication entitled *Doing Business in South Africa* which indicates that companies in energy-intensive industries may negotiate special tariffs with the relevant authority and/or the Electricity Supply Commission (ESKOM), a state enterprise. In the 1993 investigation of certain steel products from South Africa, petitioners also alleged that steel producers in South Africa may benefit from special electricity rates that can be negotiated with ESKOM, but the Department did not initiate an investigation of electricity rates. *See 1993 Initiation*, 58 FR 32515. The statement from in Price Waterhouse publication contains no new information or evidence of changed circumstances which would warrant a reexamination of electricity rates in South Africa. Thus, we are not including this program in our investigation.

9. World-Player Scheme. According to IDC publications provided in the petition, this scheme makes low-interest financing available to manufacturers for the acquisition of fixed assets (machinery and equipment) in order to improve their competitiveness following changes in the tariff protection policy. The description of the World-Player Scheme itself does not indicate that the scheme is designed to promote exports; rather, it indicates that its focus is to assist companies competing with imports. In addition, although the IDC publications indicate that the scheme is available to manufactures whose total nominal import tariff rates have decreased by ten percentage points, petitioners have not provided information indicating that changes in tariffs rates are limited to a specific enterprise or industry, or group thereof.

Distribution of Copies of the Petition

In accordance with section 702(b)(4)(A)(i) of the Act, copies of the public version of the petition have been provided to the representatives of Belgium, Italy, Korea, and South Africa. We will attempt to provide copies of the public version of the petition to all the exporters named in the petition, as provided for under section 351.203(c)(2) of the Department's regulations.

ITC Notification

Pursuant to section 702(d) of the Act, we have notified the ITC of these initiations.

Preliminary Determination by the ITC

The ITC will determine by May 15, 1998, whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, by reason of imports of stainless steel plate in coils from Belgium, Italy, the Republic of Korea, and the Republic of South Africa. A negative ITC determination will, for any country, result in the investigation being terminated with respect to that country; otherwise, the investigations will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 777(i) of the Act.

Dated: April 20, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–11275 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 042098B]

Marine Mammals; Scientific Research Permit (PHF# 898–1451)

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Attractions Hawaii, P.O. Box 1060, Pacific Davies Center, Honolulu, Hawaii 96808, has applied in due form for a permit to take Hawaiian monk seals (*Monachus schauinslandi*) for purposes of scientific research and enhancement.

DATES: Written comments must be received on or before May 28, 1998.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301) 713–2289;

Regional Administrator, Southwest Region, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213 (562) 980-4001; and

Protected Species Program Manager, Pacific Islands Area Office, 2570 Dole Street, Room 106, Honolulu, HI 9682–2396 (808) 973–2987.

Written data or views, or requests for a public hearing on this request, should be submitted to the Director, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this application would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

The application is for the permanent transfer of five (5) currently captive, unreleasable adult Hawaiian monk seals to Sea Life Park Hawaii for research and enhancement purposes. The primary objective of the proposed activity is to make the seals available for scientific research on an opportunistic basis in order to benefit the wild population of Hawaiian monk seals. A secondary objective is to increase public awareness of the status of the Hawaiian monk seal through education efforts and by providing an opportunity to observe the species in captivity.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*),an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 22, 1998.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 98–11243 Filed 4–27–98; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Ballistic Missile Defense Advisory Committee

ACTION: Notice of advisory committee meeting.

SUMMARY: The Ballistic Missile Defense (BMD) Advisory Committee will meet in closed session at MacDill Air Force Base, Tampa, Florida, on May 12–13, 1998.

The mission of the BMD Advisory Committee is to advise the Secretary of Defense and Deputy Secretary of Defense, through the Under Secretary of Defense (Acquisition and Technology), on all matters relating to BMD acquisition, system development, and technology.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended by 5 U.S.C., Appendix II, it is hereby determined that this BMD Advisory Committee meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly this meeting will be closed to the public.

Dated: April 22, 1998.

Linda M. Bynum,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–11155 Filed 4–27–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Advisory Council on Dependent's Education

AGENCY: Department of Defense, Department of Defense Dependents Schools (DoDDS).

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given of a forthcoming semiannual public meeting of the Advisory Council on Dependents' Education (ACDE). The purpose of this meeting is to obtain advice about DoDDS education programs, including the technology program and application of the Department of Defense Education Activity initiative, "Framework for Excellence." The "Framework for Excellence" is aimed at helping schools that are farthest from meeting the DoDDS performance standards and benchmarks. These standards and benchmarks indicate how well students are mastering the knowledge and skills expected of them.

DATES: May 28, 1998, 8:30 a.m. to 5 p.m. and May 29, 1998, 8:30 a.m. to 12 p.m.

ADDRESSES: This meeting will be held in the Office of the Secretary of Defense, Conference Room (Room 1E801), in the Pentagon.

FOR FURTHER INFORMATION CONTACT: Ms. Marilee Fitzgerald, Department of Defense Dependents Schools, 4040 North Fairfax Drive, Arlington, Virginia, 22203–1635. Ms. Fitzgerald can be reached at 703–696–3866, extension 2800.

SUPPLEMENTARY INFORMATION: The Advisory Council on Dependents' Education is established under Title XIV, section 1411, of Public Law 95–561, Defense Dependents' Education Act of 1978, as amended (20 U.S.C. section 929). The purpose of the Council is to recommend to the Director, DoDDS, general policies for the operation of the DoDDS; to provide the Director, DoDDS, with information about effective educational programs and practices that should be considered by DoDDS; and to perform other tasks as may be required by the Secretary of Defense.

Dated: April 22, 1998.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer Department of Defense.

[FR Doc. 98–11156 Filed 4–27–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before June 29, 1998.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: April 22, 1998.

Hazel Fiers,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: New.

Title: 1999 National Household Education Survey (NHES:99).

Frequency: Annually.

Affected Public: Individuals or households.

Reporting Burden and Recordkeeping: Responses: 107,155.

Burden Hours: 15,826.

Abstract: The NHES:99 will be a telephone survey of households remeasuring key indicators from past NHES surveys related to such topics as Early Childhood Care and Program Participation, Parent/Family Involvement in Education, Youth Civic Involvement, and Adult Education. Respondents will be parents of children from birth through 12th grade, youth enrolled in grades 6 through 12, and adults age 16 and older and not enrolled in grade 12 or below. The collection will provide information on the National Household Education Goals which pertain to school readiness (Goal 1), student achievement and citizenship (Goal 3), adult literacy and lifelong learning (Goal 6), and parental participation (Goal 8), and the U.S. Department of Education's Strategic Plan of 1998–2000.

Office of Special Education and Rehabilitative Services

Type of Review: Reinstatement.
Title: Case Service Report.
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Annuol Reporting and Recordkeeping Hour Burden:
Responses: 82.
Burden Hours: 4,346.

Abstract: As required by Section 13 of the Rehabilitation Act, the data are submitted by State vocational rehabilitation agencies each year. The data contain personal and program-related characteristics, including economic outcomes of persons with disabilities whose case records are closed.

Office of the Under Secretary

Type of Review: New.
Title: Evaluation of Upward Bound.
Frequency: On occasion.
Affected Public: Individuals or households; Not-for-profit institutions.
Reporting and Recordkeeping Hour Burden:
Responses: 9,429.
Burden Hours: 6,825.

Abstract: The Upward Bound program aims to increase the chances that disadvantaged youth will enroll and succeed in college. The Department of Education needs this evaluation to assess the impact of Upward Bound on student outcomes such as college enrollment, persistence, and achievement. Respondents include Upward Bound project directors and a longitudinal panel of Upward Bound students.

[FR Doc. 98–11181 Filed 4–27–98; 8:45 am]
BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

[Docket No. EA–180]

Application To Export Electric Energy; Virginia Electric and Power Company

AGENCY: Office of Fossil Energy, DOE.
ACTION: Notice of application.

SUMMARY: Virginia Electric and Power Company (Virginia Power), an investor-owned public utility, has submitted an application for authorization to export electric energy to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before May 28, 1998.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Ellen Russell (Program Office) 202–586–9624 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On April 9, 1998, Virginia Power applied to the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Canada pursuant to section 202(e) of the FPA. Specifically, Virginia Power has proposed to transmit to Canada electric energy and/or capacity from its own surplus generation or from purchases on the wholesale market.

Virginia Power would arrange for the exported energy to be transmitted to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Maine Electric Power Company, Maine Public Service Company, Minnesota Power and Light Company, Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction of each of these transmission facilities, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any persons desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Federal Energy Regulatory Commission's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of such petitions, comments and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with Michael C. Regulinski, Esq., Virginia Electric and Power Company, One James River Plaza, 701 East Carey Street, Richmond, VA 23219 and James H. McGrew, Esq., Bruder, Gentile & Marcoux, L.L.P., 1100 New York Avenue, NW, Suite 510 East, Washington, DC 20005–3934.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC on April 22, 1998.

Anthony J. Como,

Manager, Electric Power Regulation, Office of Coal and Power Im/Ex, Office of Coal and Power Systems, Office of Fossil Energy.

[FR Doc. 98–11214 Filed 4–27–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River

AGENCY: Department of Energy.
ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River.

DATES AND TIMES: Monday, May 18, 1998:

2:00 p.m. (Nuclear Materials Management Subcommittee)
4:30 p.m. (Executive Committee—tentative)
6:30 p.m.–7:00 p.m. (Public Comment

Session)
7:00 p.m.–9:00 p.m. (Individual Subcommittee Meetings)
Tuesday, May 19, 1998: 8:30 a.m.–4:00 p.m.

ADDRESSES: All meetings will be held at: Savannah DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia 31401.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Public Accountability Specialist, Environmental Restoration and Solid Waste Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–5374.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

Tentative Agenda

Monday, May 18, 1998

2:00 p.m. Nuclear materials management subcommittee
4:30 p.m. Executive committee meeting
6:30 p.m. Public comment session (5-minute rule)
7:00 p.m. Issues-based subcommittee meetings
9:00 p.m. Adjourn

Tuesday, May 19, 1998

8:30 a.m.
Approval of minutes, agency updates (~15 minutes)
Public comment session (5-minute rule) (~10 minutes)
Nuclear materials management subcommittee (~2 hours)
—Update on processing needs assessment
—Nuclear material management integration plan
—Results of National Academy of Sciences study on HEU Fuel
Proposal to amend bylaws (~15 minutes)
Risk management & future use subcommittee report (~1 hour)
12:00 p.m.
Lunch
Public comment session (5-minute rule) (~10 minutes)
DOE national transportation program (~45 minutes)
Environmental remediation and waste management subcommittee report (~1 hour 30 minutes)
Intersite workshop discussions (~15 minutes)
Public comment session (5-minute rule) (~10 minutes)
4:00 p.m.
Adjourn

If necessary, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meeting Monday, May 18, 1998.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gerri Flemming's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on April 22, 1998

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–11215 Filed 4–27–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site

DATES: Thursday, June 4, 1998: 9:00 a.m.–5:00 p.m.; Friday, June 5, 1998: 8:30 a.m.—4:30 p.m.

ADDRESSES: Tower Inn, 1515 George Washington Way, Richland, Washington, 1–800–635–3980.

FOR FURTHER INFORMATION CONTACT: Gail McClure, Public Involvement Program Manager, Department of Energy Richland Operations Office, P.O. Box 550 (A7–75), Richland, WA, 99352; Ph: (509) 373–5647; Fax: (509) 376–1563.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

The Board will receive information on and discuss issues related to Tank Waste Remediation System (TWRS) Program Draft Recovery Plan for Interim Stabilization and Readiness to Proceed for TWRS Privatization; Intersite Discussion Workshops; Paths to Closure Strategy; and Spent Fuel Cost, Schedule and Management Issues. The Board will also receive updates on TWRS Privatization, the Draft FY 2000 Integrated Priority List, and the FY 1999 Budget.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Gail McClure's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments near the beginning of the meeting.

Minutes

The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Gail McClure, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509) 376–9628.

Issued at Washington, DC on April 22, 1998.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–11216 Filed 4–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Secretary of Energy Advisory Board; Notice of Open Meeting

AGENCY: Department of Energy.

SUMMARY: Consistent with the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following advisory committee meeting:

Name: Secretary of Energy Advisory Board—Electric System Reliability Task Force.

DATES AND TIMES: Tuesday, May 12, 1998, 8:30 AM–4:00 PM.

ADDRESSES: The Madison Hotel, Dolley Madison Ballroom, 15th and M Street, NW, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Richard C. Burrow, Secretary of Energy Advisory Board (AB–1), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585, (202) 586–1709 or (202) 586–6279 (fax).

SUPPLEMENTARY INFORMATION:

Background

The electric power industry is in the midst of a complex transition to competition, which will induce many far-reaching changes in the structure of the industry and the institutions which regulate it. This transition raises many reliability issues, as new entities emerge in the power markets and as generation becomes less integrated with transmission.

Purpose of the Task Force

The purpose of the Electric System Reliability Task Force is to provide advice and recommendations to the Secretary of Energy Advisory Board regarding the critical institutional, technical, and policy issues that need to be addressed in order to maintain the reliability of the nation's bulk electric system in the context of a more competitive industry.

Tentative Agenda

Tuesday, May 12, 1998

8:30–8:45 AM Opening Remarks & Objectives—Philip Sharp, ESR Task Force Chairman
8:45–10:00 AM Working Session: Discussion of Draft Position Paper on Technical Issues in Transmission Reliability—Facilitated by Philip Sharp
10:00–10:30 AM Working Session: Discussion of International Lessons Learned—Facilitated by Matthew Holden
10:30–10:45 AM Break
10:45–11:45 AM Working Session: Discussion of a Draft Position Paper on State/Regional Reliability Issues—Facilitated by Ralph Cavanagh
11:45–12:00 PM Working Session: Planning for the Final Report—Facilitated by Philip Sharp
12:00–1:00 PM Lunch
1:00–2:15 PM Working Session: Discussion of a Draft Position Paper on Incentives for Transmission Enhancement—Facilitated by Susan Tierney
2:15–3:30 PM Working Session: Discussion of Draft Position Paper on Ancillary Services and Bulk-Power Reliability—Facilitated by Philip Sharp
3:30–4:00 PM Public Comment Period
4:00 PM Adjourn

This tentative agenda is subject to change. The final agenda will be available at the meeting.

Public Participation

The Chairman of the Task Force is empowered to conduct the meeting in a fashion that will, in the Chairman's judgment, facilitate the orderly conduct of business. During its meeting in Washington, D.C., the Task Force welcomes public comment. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. The Task Force will make every effort to hear the views of all interested parties. Written comments may be submitted to Skila Harris, Executive Director, Secretary of Energy Advisory Board, AB–1, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, D.C. 20585. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved prior to publication.

Minutes

Minutes and a transcript of the meeting will be available for public review and copying approximately 30 days following the meeting at the Freedom of Information Public Reading Room, 1E–190 Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C., between 9:00 AM and 4:00 PM, Monday through Friday except Federal holidays. Information on the Electric System Reliability Task Force and the Task Force's interim report may be found at the Secretary of Energy Advisory Board's web site, located at http://www.hr.doe.gov/seab.

Issued at Washington, D.C., on April 23, 1998.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 98–11217 Filed 4–27–98; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–353–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

April 22, 1998.

Take notice that on April 15, 1998, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue S.E., Charleston, West Virginia 25314–1599, filed in Docket No. CP98–353–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new delivery point in Maryland, under Columbia's blanket certificate issued in Docket No. CP83–76–000 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.

Columbia proposes to construct and operate a new point of delivery to Washington Gas Light Company (WGL) on Columbia's pipeline number WG in Poolesville Township, Montgomery County, Maryland. The interconnecting facilities will consist of installing a 4-inch tap, 3-inch meter, electronic measurement and approximately 250 feet of 4-inch pipeline. Transportation service will be firm service provided under Columbia's Rate Schedule Storage Service Transportation (SST). The estimated natural gas quantities to be delivered is 3,500 Dth/day and 1,277,500 Dth/annually. Columbia states that the point of delivery has been requested by WGL to serve both residential and commercial customers. WGL has not requested an increase in its firm entitlement in conjunction with this request. The estimated cost is $176,074 which includes "gross up" for income tax purposes and WGL will reimburse Columbia 100% of the actual total cost of construction.

Columbia states that the new point of delivery will have no effect on its peak

day and annual deliveries, that its existing tariff does not prohibit the addition of new delivery points, and that deliveries will be accomplished without detriment or disadvantage to its other customers and that the total volumes delivered will not exceed total volumes authorized prior to this request.

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. 98–11175 Filed 4–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–357–000]

El Paso Natural Gas Company; Notice of Application

April 22, 1998.

Take notice that on April 16, 1998, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP98–357–000, an application pursuant to Section 3 of the Natural Gas Act, Subpart B of Part 153 of the Commission's Regulations, and Executive Order Nos. 10485 and 12038. El Paso seeks a Presidential Permit and Section 3 authority to site, construct, operate, maintain, and connect the proposed pipeline facilities and the place of exit for exporting natural gas at the International Boundary between the United States and Mexico in Cochise County, Arizona. On April 6, 1998, in FE Docket No. 98–26–NG, Mexcobre filed with the Department of Energy its application for blanket authorization to export natural gas to Mexico, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

El Paso states that Mexicano de Cobre, S.A. de C.V. (Mexcobre) is a corporation organized under the laws of Mexico that currently operates a copper mine in Nacozari, Sonora, Mexico, located approximately 65 miles south of the town of Douglas, Cochise County, Arizona, and the International Boundary between the United States and Mexico. Mexcobre has been using high sulfur residual oil as fuel for its mining of copper. Mexcobre now desires to use clean burning natural gas as a fuel for its mining process.

El Paso further states that in support of Mexcobre's decision to use natural gas as fuel for its mining operations, Mexcobre has requested that El Paso provide transportation service for Mexcobre. In order for El Paso to provide the requested transportation service to Mexcobre, it will be necessary that certain additional facilities be constructed for the delivery of natural gas. El Paso and Mexcobre have entered into a Transportation Service Agreement dated March 17, 1998.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 13, 1998, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211 and the Regulations under the Natural Gas Act (18 CFR 157.10. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application, if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for El Paso to appear or be represented at the hearing.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 98–11176 Filed 4–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. SA98–71–001 and SA98–71–002]

Graham-Michaelis Corporation; Notice of Amendment To Petition for Adjustment and Request for Extension of Time

April 22, 1998.

Take notice that on March 26, 1998, Graham-Michaelis Corporation (GMC), filed a second supplement amending its March 10, 1998, petition for adjustment, pursuant to Section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), regarding its Kansas ad valorem refund liability and the refund liability of the working interest owners for whom GMC operated.[1] On September 10, 1997, the Commission issued an order in Docket No. RP97–369–000, *et al.*,[2] order on remand from the D.C. Circuit Court of Appeals,[3] directing first sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. GMC's March 10 petition, as amended, is on file with the Commission and open to public inspection.

The March 10 petition pertains to Kansas ad valorem tax refund claims submitted to GMC by Colorado Interstate Gas Company (CIG), for GMC and the working interest owners for whom GMC operated. GMC's March 10 petition requested that the Commission grant a 90-day extension of the Commission's March 9, 1998, refund deadline, to allow GMC, its working

[1] As set forth in the March 10, petition, GMC's working interest owners included: W.A. Michaelis, Jr. Revocable Trust; John L. James Revocable Trust; Ross Beach; Dail C. West; Graham Enterprises; William L. Graham Revocable Trust; Betty Harrison Graham Revocable Trust; GrahamCo.; Paul Ward Trust "B"; Margaret L. Roberts; David M. Dayvault Revocable Trust; Jack L. Yinger Revocable Trust; K & B Producers, Inc.; William Graham, Inc.; William Graham, Jr.; Chas. A. Neal & Company; March Oil Company; Minatome Corporation; Lake Forest Academy; and Melissa S. Elliott Trust.

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. Cir. 1996), cert. denied, 65 U.S.L.W. 3751 and 3754 (May 12, 1997) (Nos. 96–954 and 96–1230).

interest owners and CIG to come to an agreement on the proper amount of refunds due and to submit any unresolved dispute to the Commission. The March 10 petition also requested that the Commission grant an adjustment of its refund procedures:

(1) to allow GMC and its working interest owners a 1-year deferral (until March 9, 1999) on the payment of principal and interest attributable to royalties; and

(2) to allow GMC and its working interest owners to escrow refund amounts presently in dispute, and (a) the principal and interest attributable to royalty refunds which have not been collected, (b) the principal and interest attributable to production prior to October 4, 1983, (c) the interest on royalty amounts that have been recovered from the royalty owners where the principal has been refunded, and (d) the interest on all reimbursed principal determined to be refundable as being in excess of maximum lawful prices, excluding interest retained under (a), (b), and (c) above.

As set forth in the March 10 petition, GMC stated that it prepared schedules recalculating the aggregate total refund it believes is owed to CIG ($359,688.28) and submitted this information to its working interest owners.

GMC's March 13, 1998, first supplement to the March 10 petition amended the March 10 petition by adding: 1) Frances B. Smith Trust; 2) North Dakota University; and 3) Fred and June MacMurray Trust to the list of working interest owners covered by the March 10 petition, and by revising GMC's aggregate total refund calculation from $359,688.28 to $365,973.60.

GMC's March 26, 1998, second supplement to the March 10 petition amended the petition by adding Notre Dame University to the list of working interest owners covered by the March 10 petition, and by further revising GMC's aggregate total refund calculation, from $365,973.60 to $370,220.01.

Any person desiring to answer GMC's March 13 and March 26 amendments should file such answer with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, on or before 15 days after the date of publication of this notice in the **Federal Register**, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.213, 385.215, 385.1101, and 385.1106).

David P. Boergers,

Acting Secretary.

[FR Doc. 98–11171 Filed 4–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–361–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

April 22, 1998.

Take notice that on April 17, 1998, Koch Gateway Pipeline Company, (Koch), P.O. Box 1478, Houston, Texas, 77251–1478, filed under Sections 157.205 and 157.211(a)(2) of the Commission's Regulations under the Natural Gas Act to construct delivery facilities to serve Savannah Foods' Colonial Sugars Processing Plant (Colonial), an end user, served under Koch's FTS Rate Schedule. This docket which is on file with the Commission and open to public inspection.

Koch proposes to install the new delivery point on its transmission line, designated as Index 270, in St. James Parish, Louisiana. These facilities will satisfy Colonial's request for gas service. Colonial estimates the maximum peak day volumes to be delivered at 8,000 MMBtu and average day volumes to be delivered at 6,000 MMBtu. Koch plans to install a 2-inch tap, a dual 2 and 4-inch meter station and 5,300 feet of 4-inch pipeline to connect to Colonial's processing plant. The cost of installing the facilities is $235,000. Koch will transport the volumes under its blanket certificate issued in Docket No. CP88–6–000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filling 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. 98–11174 Filed 4–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–140–000]

Tennessee Gas Pipeline Company; Notice of Technical Conference

April 22, 1998.

In the Commission's order issued on March 25, 1998, the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Tuesday, Mary 5, 1998, at 10:00 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

All interested parties and staff are permitted to attend.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–11173 Filed 4–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–189–000]

UtiliCorp United Inc.; Notice of Petition for Relief

April 22, 1998.

Take notice that on April 17, 1998, pursuant to Order No. 636–C and Rule 207 of the Rules of Practice and Procedure, UtiliCorp United Inc. (UtiliCorp), tendered for filing a petition for relief to shorten to five years the terms of its two firm transportation agreements with Colorado Interstate Gas Company (CIG), that were entered into pursuant to the then-effective right-of-first-refusal (ROFR), procedures under CIG's tariff—(1) Rate Schedule TF–1 Service Agreement No. 33128, which currently expires on March 31, 2009; and (2) Rate Schedule TF–1 Service Agreement No. 33079, which currently expires on March 31, 2012.

UtiliCorp requests that the Commission order the shortening of the terms of Agreements No. 33079 and 33128 to five years because, in accordance with Order No. 636–C, UtiliCorp agreed to the current terms exclusively because of the twenty-year cap under CIG's then-effective tariff. UtiliCorp states that had it not had to match a competing third party bid—which under CIG's then-effective tariff could be for as long as twenty years for

purposes of the evaluation of the bids—UtiliCorp would have entered into, at most, a five-year agreement, and absent certain concessions by CIG, UtiliCorp's preferred term was always one year only.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 29, 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–11172 Filed 4–27–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6005–3]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463), the U.S. Environmental Protection Agency gives notice of a meeting of the Good Neighbor Environmental Board.

The Good Neighbor Environmental Board was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on the need for implementation of environmental and infrastructure projects within the States contiguous to Mexico in order to improve the quality of life of persons residing on the United States side of the border. The Board is required to submit an annual report to the President and the Congress. The statute calls for the Board to have representatives from U.S. Government agencies; the governments of the States of Arizona, California, New Mexico and Texas; and private organizations with expertise on environmental and infrastructure problems along the southwest border. The Board meets three times annually. At this meeting, the Board will focus primarily on completion of its third annual report.

DATES: The Board will meet on May 27 and 28, 1998. On May 27, the Board will meet from 8:30 a.m. until 5:30 p.m. On May 28, the Board will meet from 8:30 a.m. until 2:30 p.m.

ADDRESSES: The Vancouver Suites Hotel, 1611 Hickory Loop, Las Cruces, New Mexico 88005. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION: Contact Mr. Robert Hardaker, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–2477.

Dated: April 17, 1998.

Robert Hardaker,

Designated Federal Officer, Good Neighbor Environmental Board.

[FR Doc. 98–11263 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6005–4]

National Advisory Council for Environmental Policy and Technology, Title VI Implementation Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act (P.L. 92–463), the U.S. Environmental Protection Agency (EPA) now gives notice of a meeting of the Title VI Implementation Advisory Committee of the National Advisory Council for Environmental Policy and Technology (NACEPT).

Title VI of the Civil Rights Act of 1964 prohibits recipients of federal financial assistance from discriminating on the basis of race, color, or national origin in their programs or activities. The purpose of the Title VI Implementation Advisory Committee is to advise the Administrator and Deputy Administrator of EPA on techniques that may be used by EPA funding recipients to operate environmental permitting programs in compliance with Title VI. The Title VI Implementation Advisory Committee is one of four standing committees of NACEPT.

The Committee consists of 23 independent representatives drawn from among state and local governments, industry, the academic community, tribal and indigenous interests, and grassroots environmental and other non-governmental organizations.

DATES AND OPPORTUNITY TO COMMENT: The Committee will meet on April 18, 1998 from 9:00 a.m. to 7:00 p.m. and April 19, 1998 from 9:00 a.m. to 3:00 p.m. The public comment session will be held on April 18 from 5:00 p.m. to 7:00 p.m.

Members of the public who wish to make brief oral presentations should contact Lois Williams at 202–260–6891 by May 11, 1998 to reserve time during the public comment session. Individuals or groups making presentations will be limited to a total time of five minutes. Those who have not reserved time in advance may make comments during the public comment session as time allows.

ADDRESSES: The Sheraton National Hotel, Columbia Pike and Washington Boulevard, Arlington, VA 22204. The meeting is open to the public. However, seating will be limited and available on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory Kenyon, Designated Federal Officer, U.S. EPA, Office of Cooperative Environmental Management, telephone 202–260–8169.

Dated: April 20, 1998.

Gregory Kenyon,

Designated Federal Officer, NACEPT Title VI Implementation Advisory Committee.

[FR Doc. 98–11265 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–LA; FRL–5781–5]

Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Louisiana's Authorization Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comments and opportunity for public hearing.

SUMMARY: On March 9, 1998, the State of Louisiana submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). This notice announces the receipt of Louisiana's application, and provides a 45–day public comment

period and an opportunity to request a public hearing on the application. Louisiana has provided a certification that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will be established in Louisiana.

DATES: The State program became effective March 9, 1998. Submit comments on the authorization application on or before June 12, 1998. Public hearing requests must be submitted on or before May 12, 1998.

ADDRESSES: Submit all written comments and/or requests for a public hearing identified by docket number "PB-402404-LA" (in duplicate) to: Environmental Protection Agency, Region 6, 6PD-T, 1445 Ross Ave., Suite 1200, Dallas, TX 75202-2733.

Comments, data, and requests for a public hearing may also be submitted electronically to: robinson.jeffrey@epamail.epa.gov. Follow the instructions under Unit IV. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

FOR FURTHER INFORMATION CONTACT: Jeffrey Robinson, Regional Lead Coordinator, 1445 Ross Ave., Suite 1200, 6PD-T, Dallas, TX 75202-2733. Telephone: (214) 665–7577, e-mail address: robinson.jeffrey@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the U.S. Congress passed Pub. L. 102-550 which included the Residential Lead-Based Paint Hazard Reduction Act of 1992. This Act amended TSCA (15 U.S.C. 2601 *et seq.*) by adding Title IV--Lead Exposure Reduction (15 U.S.C. 2681 *et seq.*).

Section 402 of TSCA authorizes and directs EPA to promulgate final regulations governing lead-based paint activities to ensure that individuals engaged in such activities are properly trained, that training programs are accredited, and that individuals engaged in these activities are certified and follow documented work practice standards. In lieu of the Federal program, a State or Tribe may seek authorization from EPA to administer and enforce their own lead-based paint activities program (TSCA, Title IV, section 404(a)).

On August 29, 1996 (61 FR 45777) (FRL–5389–9), EPA promulgated the final TSCA section 402/404 regulations. On August 31, 1998, EPA will institute the Federal program in States or Tribes that do not have an authorized program. States and Tribes that choose to apply for program authorization must submit a complete application to the appropriate Regional EPA Office for review. These applications must be reviewed by EPA within 180 days of receipt of the complete application. To receive final program authorization, a State or Tribe must demonstrate that its program is at least as protective of human health and the environment as the Federal program and provides for adequate enforcement (section 404(b) of TSCA, 15 U.S.C. 2684 *et seq.*, 40 CFR 745.324).

A State or Tribe may choose to certify that its lead-based paint activities program meets the requirements for EPA approval by submitting a letter signed by the Governor or Attorney General (or equivalent) that states that the program meets all the requirements set by section 404(b) of TSCA. Upon receipt of a self-certification letter, the program is deemed authorized until such time as EPA disapproves the program application or withdraws the program authorization.

This notice announces the receipt of Louisiana's application, and provides a 45–day public comment period and an opportunity to request a public hearing on the application. EPA is requesting comments on the application and whether Louisiana meets the requirements for authorization in 40 CFR 745.324(e). Louisiana has provided a self-certification letter from the Governor that its program meets the requirements for approval of a State program under section 404 of TSCA. Therefore, pursuant to section 404, the program is deemed authorized as of the date of submission. If EPA finds that the program does not meet the requirements for approval of a State program, EPA will disapprove the program, at which time a notice will be issued in the **Federal Register** and the Federal program will be established in Louisiana.

II. State Program Description Summary

The Louisiana Department of Environmental Quality (LDEQ) Lead Program encompasses a two-fold mission--to enforce regulations of lead-based paint activities and to provide education to the public on the hazards of lead-based paint, lead-contaminated soil, and lead-contaminated dust. The regulatory framework for this program is contained in Louisiana Administrative Code (LAC) 33:Part III. Chapter 28 (Lead-Based Paint Activities) and in LAC 33:Part III. Chapter 2 (Lead Program Fees).

Title 33, Part III, Chapter 28, Lead-Based Paint Activities--Recognition, Accreditation, Licensure, and Standards for Conducting Lead-Based Paint Activities, requires that all lead-based paint activities in target housing (pre-1978 residences) and child-occupied facilities (such as day-care centers) are conducted by appropriately certified contractors. The regulation establishes requirements for the certification and training of persons who conduct lead-based paint activities (lead workers, lead project supervisors, lead inspectors, lead risk assessors, and lead project designers), sets forth requirements for individuals who provide training and instruction to this work force, and requires the licensure of lead abatement contractors. The work practice standards contained in the regulation apply to those individuals who perform inspections, lead hazard screens, risk assessments, and abatement projects in target housing and child-occupied facilities. These standards require that the LDEQ be notified prior to the initiation of an abatement activity. A "grandfathering" provision is available to individuals who received EPA-model-curriculum training in lead-based paint activities between January 1, 1995, and March 20, 1998.

The LDEQ's public outreach program utilizes a multi-agency approach to heighten public awareness of lead-based paint hazards and to provide compliance assistance to the regulated community. The Lead Program works with the Louisiana Cooperative Extension Service to disseminate information to the citizens of Louisiana on lead in housing issues; with the Louisiana Department of Health and Hospitals to address environmental lead contamination affecting those children age 6 and under who are found to have elevated blood-lead levels; and with the Louisiana State Licensing Board for Contractors to ensure that lead abatement contractors who seek licenses in Louisiana meet criteria set by the State legislature. LDEQ staff members participate in workshops and seminars with the regulated community, and address concerns of homeowners' associations and nonprofit groups who rehabilitate homes in the community. A multi-media approach, including print, radio, and TV, is used to inform the public of the hazards associated with

lead-based paint, lead-contaminated dust, and lead-contaminated soils.

III. Federal Overfiling

TSCA section 404(b) makes it unlawful for any person to violate, or fail, or refuse to comply with any requirement of an approved State or Tribal program. Therefore, EPA reserves the right to exercise its enforcement authority under TSCA against a violation of, or a failure, or refusal to comply with any requirement of an authorized State or Tribal program.

IV. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established under docket control number "PB–402404–LA." Copies of this notice, the State of Louisiana's authorization application, and all comments received on the application are available for inspection in the Region 6 office, from 7:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket is located at EPA Region 6 Library, Environmental Protection Agency, 1445 Ross Ave., Suite 1200, Dallas, TX.

Electronic comments can be sent directly to EPA at:
robinson.jeffrey@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number "PB–402404–LA." Electronic comments on this document may be filed online at many Federal Depository Libraries.

Authority: 15 U.S.C. 2682, 2684.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: April 17, 1998.

Robert E. Hanneschlager,

Acting Division Director, Multimedia Planning and Permitting, Region VI.

[FR Doc. 98–11270 Filed 4–27–98; 8:45 a.m.]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6004–6]

Notice of Proposed Revisions to Approved Programs To Administer the National Pollutant Discharge Elimination System Permitting Program in Illinois and Minnesota Resulting in Part From Adoption of the Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Notice is hereby given that the Environmental Protection Agency (EPA) has received for review and approval revisions to the National Pollutant Discharge Elimination System (NPDES) programs in Illinois and Minnesota. Most of the proposed revisions were adopted to comply with section 118(c) of the Clean Water Act and 40 CFR 132.4, although in some cases, the State has also proposed revisions that are not related to those required by section 118(c) of the CWA and 40 CFR 132.4. EPA invites public comment on whether EPA should approve these revisions pursuant to 40 CFR 123.62 and 132.5.

DATES: Comments on whether EPA should approve the revisions to Illinois' and Minnesota's NPDES programs must be received in writing by May 28, 1998.

ADDRESSES: Written comments on these documents may be submitted to Jo Lynn Traub, Director, Water Division, Attn: GLI Implementation Procedures, U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590. In the alternative, EPA will accept comments electronically. Comments should be sent to the following Internet E-mail address: karnauskas.joan@epamail.epa.gov. Electronic comments must be submitted in an ASCII file avoiding the use of special characters and any form of encryption. EPA will print electronic comments in hard-copy paper form for the official administrative record. EPA will attempt to clarify electronic comments if there is an apparent error in transmission. Comments provided electronically will be considered timely if they are submitted electronically by 11:59 p.m. (Central Daylight Saving time) May 28, 1998.

FOR FURTHER INFORMATION CONTACT: Mery Jackson-Willis, Standards and Applied Sciences Branch, Water Division, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604–3590, or telephone her at (312) 886–3717.

Copies of the rules adopted by the States, and other related materials submitted by the States in support of these revisions, are available for review at: EPA, Region 5, 77 West Jackson Boulevard, 15th Floor, Chicago, Illinois; Illinois Environmental Protection Agency, Library, 1021 North Grand Avenue East, Springfield, Illinois; Minnesota Pollution Control Agency, 520 Lafayette Road North, St. Paul, Minnesota. To access the docket material in Chicago, call (312)886–3717 between 8 a.m. and 4:30 p.m. (Central Daylight Saving Time) (Monday-Friday); in Illinois, call (217) 782–9691; and in Minnesota, call (612) 296–7398.

SUPPLEMENTARY INFORMATION: On March 23, 1995, EPA published the Final Water Quality Guidance for the Great Lakes System (Guidance) pursuant to section 118(c)(2) of the Clean Water Act, 33 U.S.C. 1268(c)(2). (March 23, 1995, 60 FR 15366). The Guidance, which was codified at 40 CFR Part 132, requires the Great Lakes States to adopt and submit to EPA for approval, water quality criteria, methodologies, policies and procedures that are consistent with the Guidance. 40 CFR 132.4 & 132.5. EPA is required to approve of the State's submission within 90 days or notify the State that EPA has determined that all or part of the submission is inconsistent with the Clean Water Act or the Guidance and identify any necessary changes to obtain EPA approval. If the State fails to make the necessary changes within 90 days, EPA must publish a notice in the **Federal Register** identifying the approved and disapproved elements of the submission and a final rule identifying the provisions of Part 132 that shall apply for discharges within the State.

On February 13 and 20, 1998, EPA Region 5 received submissions from Minnesota and Illinois, respectively. The bulk of these submissions consist of new, revised or existing water quality standards which EPA is reviewing for consistency with the Guidance in accordance with 40 CFR 131 and 132.5. EPA is not soliciting comment on those portions of these submissions relating to the water quality criteria and methodologies, use designations or antidegradation. EPA also is not soliciting comment on the Guidance itself.

Instead, EPA is only requesting comment on whether it should approve, pursuant to 40 CFR 123.62, and 132.5(g), those portions of these submissions that revise the States' approved National Pollutant Discharge

Elimination System (NPDES) permitting program. In most cases these revisions relate to the following provisions of 40 CFR part 132, Appendix F: Procedure 3 ("Total Maximum Daily Loads, Wasteload Allocations for Point Sources, Load Allocations for Nonpoint Sources, Wasteload Allocations in the Absence of a TMDL, and Preliminary Wasteload Allocations for Purposes of Determining the Need for Water Quality Based Effluent Limits"); Procedure 4 ("Additivity"); Procedure 5 ("Reasonable Potential"); Procedure 6 (Whole Effluent Toxicity"); Procedure 7 ("Loading Limits"); Procedure 8: ("Water Quality-based Effluent Limitations Below the Quantification Level); Procedure 9 ("Compliance Schedules"). EPA is not soliciting comment on the States' adoption of requirements pertaining to Implementation Procedures 1 ("Site Specific Modifications") or 2 ("Variances") because those requirements constitute parts of the States' water quality standards, not its NPDES program.

Under 40 CFR 123.62(b)(2) and 132.5(e), whenever EPA determines that a proposed revision to a State NPDES program is substantial, EPA must provide notice and allow public comment on the proposed revisions. The extent to which the States have modified their NPDES programs to be consistent with the Guidance varies significantly, depending on the extent to which their existing programs already were "as protective as" the implementation procedures in the Guidance. EPA has not conducted a State-by-State review of the submissions to ascertain for each State individually whether their changes constitute substantial program modifications. However, in light of the fact that the States have modified these programs in response to the explicit statutory mandate contained in section 118(c) of the Clean Water Act, EPA believes that it is appropriate to consider the NPDES component of the States' submissions to be substantial program modifications, and therefore has decided to solicit public comment regarding those provisions.

Interested persons may request a public hearing regarding whether EPA should approve, pursuant to 40 CFR 123.62, and 132.5(g), those portions of the States' submissions that revise the States' approved NPDES permitting program. EPA will determine, based upon requests received, if there is significant interest to warrant a public hearing.

Based on General Counsel Opinion 78–7 (April 18, 1978), EPA has long considered a determination to approve or deny a State NPDES program submission to constitute an adjudication because an "approval", within the meaning of the APA, constitutes a "license", which, in turn, is the product of an "adjudication". For this reason, the statutes and Executive Orders that apply to rulemaking action are not applicable here. Among these are provisions of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq.* Under the RFA, whenever a Federal agency proposes or promulgates a rule under section 553 [of the Administrative Procedures Act (APA)], after being required by that section or any other law to publish a general notice of proposed rulemaking, the Agency must prepare a regulatory flexibility analysis for the rule, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. If the Agency does not certify the rule, the regulatory flexibility analysis must describe and assess the impact of a rule on small entities affected by the rule.

Even if the NPDES program modification were a rule subject to the RFA, the Agency would certify that approval of the State's modified program would not have a significant economic impact on a substantial number of small entities. EPA's action to approve an NPDES program modification merely recognizes revisions to the program which have already been enacted as a matter of State law; it would, therefore, impose no additional obligations upon those subject to the State's program. Accordingly, the Regional Administrator would certify that this program modification, even if a rule, would not have a significant economic impact on a substantial number of small entities.

Dated: April 15, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region 5.

[FR Doc. 98–11258 Filed 4–27–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 92–237; DA 98–782]

Conference Call Meeting of the North American Numbering Council

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: On April 23, 1998, the Commission released a public notice announcing the May 8, 1998, conference call meeting of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and its agenda.

FOR FURTHER INFORMATION CONTACT: Jeannie Grimes at (202) 418–2313. The address is: Network Services Division, Common Carrier Bureau, Federal Communications Commission, 2000 M Street, NW, Suite 235, Washington, DC 20554. The fax number is: (202) 418–7314. The TTY number is: (202) 418–0484.

SUPPLEMENTARY INFORMATION: Released April 23, 1998.

The North American Numbering Council (NANC), has scheduled a meeting to be held by conference call on May 8, 1998, from 1:00 p.m. until 3:30 p.m. EST. The conference bridge number is 1–888–582–4100, PIN 3531542. Due to limited port space, NANC members and Commission staff will have first priority on the call. Members of the public may join the call as remaining port space permits.

This notice of the May 8, 1998, NANC conference call meeting is being published in the **Federal Register** less than 15 calendar days prior to the meeting due to NANC's need to discuss and finalize its recommendation and report on Local Number Portability Administration Wireless Wireline Integration, before the next scheduled meeting. This statement complies with the General Services Administration Management Regulations implementing the Federal Advisory Committee Act. *See* 41 CFR § 101–6.1015(b)(2).

This meeting is open to the members of the general public. The FCC will attempt to accommodate as many participants as possible. Participation on the conference call is limited. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting. Requests to make an oral statement or provide written comments to the NANC should be sent to Jeannie Grimes at the address under **FOR FURTHER INFORMATION CONTACT,** stated above.

Proposed Agenda

1. Local Number Portability Administration Working Group Report on Wireless Wireline Integration.

2. Other Business.

Federal Communications Commission.

Geraldine A. Matise,

Chief, Network Services Division, Common Carrier Bureau.

[FR Doc. 98–11348 Filed 4–27–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1214–DR]

Alabama; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Alabama (FEMA–1214–DR), dated April 9, 1998, and related determinations.

EFFECTIVE DATE: April 17, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Alabama, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of April 9, 1998:

Cullman County for Individual Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–11220 Filed 4–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1195–DR]

Florida; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Florida (FEMA–1195–DR), dated January 6, 1998, and related determinations.

EFFECTIVE DATE: April 17, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Florida, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 6, 1998:

Bay County for Individual Assistance (already designated for Public Assistance).

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–11219 Filed 4–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1209–DR]

Georgia; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Georgia (FEMA–1209–DR), dated March 11, 1998, and related determinations.

EFFECTIVE DATE: April 16, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that in a letter dated April 16, 1998, the President amended his declaration of March 11, 1998, to define the incident period for this disaster as February 14, 1998, and continuing.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–11218 Filed 4–27–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of he Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Ocean's Freight, Inc., 4210 N.W. 35th Court, Miami, FL 33142, Officer: Luis Miguel Boscan, President.

Dated: April 22, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–11159 Filed 4–27–98; 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 May 12, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. 1996 Radcliffe Family Irrevocable Trust, Tomah, Wisconsin; to acquire additional voting shares of BRAD, Inc., Black River Falls, Wisconsin, and thereby indirectly acquire Black River Country Bank, Black River Falls, Wisconsin.

B. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. J.L. and Delene Stuart Qualified Family Partnership, L.P.; and Ned and Margaret Stuart Qualified Family Partnership, L.P., both of Shattuck, Oklahoma; to acquire voting shares of Shattuck Bancshares, Inc., Shattuck, Oklahoma, and thereby indirectly acquire voting shares of Shattuck National Bank, Shattuck, Oklahoma.

Board of Governors of the Federal Reserve System, April 22, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–11192 Filed 4–27–98; 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 May 22, 1998.

A. Federal Reserve Bank of Cleveland (Paul Kaboth, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Star Banc Corporation, Cincinnati, Ohio; to acquire 100 percent of the voting shares of Trans Financial, Inc., Bowling Green, Kentucky, and thereby indirectly acquire Trans Financial Bank, NA, Bowling Green, Kentucky, and Trans Financial Bank Tennessee, NA, Nashville, Tennessee.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Community Bankshares, Inc., Orangeburg, South Carolina; to acquire 100 percent of the voting shares of Florence National Bank, Florence, South Carolina (in organization).

C. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Avon State Bank Employee Stock Ownership Plan, Avon, Minnesota; to acquire 36.1 percent of the votings shares of Avon Bancshares, Inc., Avon, Minnesota, and thereby indirectly acquire Avon State Bank, Avon, Minnsota.

D. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Heritage Financial Corporation, Olympia, Washington; to merge with North Pacific Bancorporation, Tacoma, Washington, and thereby indirectly acquire North Pacific Bank, Tacoma, Washington.

Board of Governors of the Federal Reserve System, April 22, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–11191 Filed 4–27–98; 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 May 12, 1998.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. National Australia Bank Limited, Melbourne, Australia; to acquire indirectly through Homeside Lending, Inc., Jacksonville, Florida, certain assets and assume certain liabilities of Banc One Mortgage Corporation, Indianapolis, Indiana, and thereby engage in mortgage banking activities and servicing loans, pursuant to §§ 225.28(b)(1) and (b)(2) of the Board's Regulation Y.

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. Palm Desert Investments, Palm Desert, California; to engage *de novo* in acting as a "finder" in bringing together buyers and sellers in connection with the sale of automated teller machines ("ATMs") or management rights with respect to such ATMs, pursuant to § 225.28(b)(14) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 22, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–11193 Filed 4–27–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 11:00 a.m., Monday, May 4, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Joseph R. Coyne, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: April 24, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–11452 Filed 4–24–98; 3:59 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. HHS Procurement-Solicitations and Contracts—Extension—0990–0115—This clearance request covers general information collection requirements of the procurement process such as technical proposals and statements of work.—*Respondents:* State or local governments, businesses or other for-profit, non-profit institutions, small businesses; *Annual Number of Respondents:* 5,660; *Frequency of Response:* one time; *Average Burden per Response:* 253.41 hours; *Estimated Annual Burden:* 1,434,300 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Officer on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street N.W., Washington, D.C. 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue S.W., Washington, DC, 20201. Written comments should be received within 30 days of this notice.

Dated: April 10, 1998.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 98–11178 Filed 4–27–98; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Vaccine Program Office Meetings

The National Vaccine Program Office, Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: National Vaccine Advisory Committee (NVAC) Immunization Registries Workgroup on Ensuring Provider Participation.

Time and date: 8:30 a.m.–12:30 p.m., May 13, 1998.

Name: NVAC Immunization Registries Workgroup on Resource Issues.

Time and date: 1:30 p.m.–5:30 p.m., May 13, 1998.

Name: NVAC Immunization Registries Workgroup on Privacy and Confidentiality.

Time and date: 8:30 a.m.–12:30 p.m., May 14, 1998.

Name: NVAC Immunization Registries Workgroup on Technological and Operational Challenges.

Time and date: 1:30 p.m.–5:30 p.m., May 14, 1998.

Place: Omni Shoreham Hotel, Ambassador Ballroom, 2500 Calvert Street, NW., Washington, DC, telephone (202) 234–0700.

Status: Open to the public, limited only by space availability. The meeting room accommodates approximately 200 people.

Purpose: During a White House Ceremony on July 23, 1997, the President directed the Secretary of Health and Human Services (HHS) to work with the States on integrated immunization registries. As a result, NVAC has formed workgroups, staffed by the National Immunization Program (NIP), that will gather information for development of a National Immunization Registry Plan of Action.

To assist in the formulation of a work plan, a series of public meetings relating to (1) privacy and confidentiality; (2) resource issues; (3) technological and operational challenges; and (4) ensuring provider participation, will be held throughout the Nation. These meetings will provide an opportunity for input from all partners which include state and local public health agencies, professional organizations of private health agencies, managed care organizations (MCOs), employer-funded health care plans, vaccine manufacturers and developers, vendors and developers of medical information systems, information standards development organizations, parents, social welfare agencies, law enforcement agencies, legislators, privacy and consumer interest groups, and other representatives of the public at large.

For each meeting, the Workgroup is inviting experts to address the four specific issues outlined above. Expert speakers are being asked to respond to the questions outlined below in writing, make brief oral presentations, and to respond to additional questions from the Workgroup.

Members of the public who wish to provide comments may do so in the form of written statements, to be received by the completion of the last meeting, addressed as follows: NIP/CDC, Data Management Division, 1600 Clifton Road, NE., M/S E–62, Atlanta, Georgia, 30333.

There will be a period of time during the agenda for members of the public to make oral statements, not exceeding 3 minutes in length, on the issues being considered by the Workgroup. Members of the public who wish to speak are asked to place their names on a list at the registration table on the day of the meeting. The number of speakers will be limited by the time available and speakers will be heard once in the order in which they place their names on the list. Written comments are encouraged; please provide 20 copies.

Based on the outcome of these meetings, a National Immunization Registry Plan of Action will be developed and proposed to NVAC for their deliberation and approval. This plan will identify registry barriers and solutions, strategies to build a registry network, resource requirements and commitments, and a target date for network completion.

Matters to be discussed: Agenda items will include an overview of the Initiative on Immunization Registries and current immunization registry efforts and testimonies by organizational representatives on the following issues relevant to immunization registries: privacy and confidentiality, resources, technological and operational challenges, and ensuring provider participation.

Agenda items are subject to change as priorities dictate.

Resource Issues Questions To Be Considered

1. What approaches have been successful in securing funding to support registries?
2. What approaches to secure funding have been tried but failed?
3. What cost-sharing arrangements would your organization view as reasonable and fair to ensure long-term sustainability of a registry?
4. Would you be willing to share costs through a fee-for-service arrangement and how much would you be willing to pay?
5. Would you be willing to support a vaccine surcharge and at what rate?
6. What types of resources and/or in-kind support do you receive and from whom?
7. What types of resources and/or in-kind support do you provide?
8. What types of resources are you willing and able to provide over the short-term and/or long-term to ensure registry sustainability?
9. Are you willing to provide resources or in-kind support toward linking your existing registries with state and local registries?
10. What are the costs of implementing/operating an immunization registry?
11. What are the costs of not having an immunization registry (e.g., looking up immunization histories, generating school immunization records, etc.)?
12. How should immunization registries be integrated with larger patient information systems and how should their component costs be ascertained?
13. Do you feel there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

Technological and Operational Questions To Be Considered

1. How can universal, interactive, real-time, secure immunization record exchange between immunization providers be implemented?
2. How does your system implement record exchange?

A. Can a provider get an up-to-date immunization history for a patient sitting in his or her office?

B. How is this function implemented?

3. How can it be assured that the most complete and up-to-date copy of an immunization record is always retrieved by a requesting provider?
4. How does your system identify the definitive record?
5. How can existing practice management systems achieve connectivity with immunization registries efficiently, without dual systems, redundant processes, and multiple interfaces?
6. What software systems can your system interface with?
7. How are connections between your system and existing systems implemented?
8. How can registries be used to measure immunization rates, accurately and routinely, at county, state, and national levels, without counting any individual more than once?
9. How can the functionality of immunization registries be standardized without compromising registries' ability to customize and extend that functionality?
10. What immunization registry functions should be standardized?
11. Who should provide leadership in such a standardization effort?
12. How will/should standards be implemented in immunization registries?
13. How can the cost of operating immunization registries be reduced to a level at which immunization providers themselves would be willing to support them? [crossover with cost issue]
14. What sorts of inter-organizational arrangements and legal structures need to be in place to provide an environment in which immunization registry data can flow as needed? [crossover with privacy & confidentiality issue]
15. Do you feel that there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?
16. How can duplication of records be minimized?
17. How can existing billing/encounter information systems be modified to provide appropriate immunization registry functions?
18. How can immunization registries be broadened to provide other important functions in patient monitoring (*e.g.*, well-child assessments, metabolic/hearing screening, etc.)?
19. What mechanisms are needed to detect and prevent unauthorized access to registry data?
20. What data capture technology (*e.g.*, bar codes, voice recognition, etc.) can minimize the negative impact on workflow?
21. What techniques (*e.g.*, standard knowledge representation such as Arden Syntax) can be used to disseminate vaccination guidelines to individual registries quickly and with a minimum of new programming required to update automated reminder/recall and forecasting based on the guidelines?

Privacy and Confidentiality Questions To Be Considered

Terminology: Privacy—The right of an individual to limit access by others to some aspect of the person. Confidentiality—The treatment of information that an individual has disclosed in a relationship of trust and with the expectation that it will not be divulged to others in ways that are inconsistent with the understanding of the original disclosure. Individually identifiable information—Information that can reasonably be used to identify an individual (by name or by inference).

1. Should immunization data have different privacy requirements than the rest of the medical record?
2. How can the disclosure and re-disclosure of immunization information be controlled through policies, procedures, and legislation?
3. Should consent to participate be implied or required? In what form?
4. Should different levels of disclosure be possible? What levels should be available to what groups?
5. Who should have access to immunization registry data?
6. What information should be disclosed to an immunization registry?
7. What other uses can immunization registry data have?
8. Would ability to produce a legal record be a desirable function for the registry?
9. What fair information practices should be implemented (e.g., ability to correct the record, notice of being put in registry to parent)?
10. How long should information be kept in a registry?
11. How will privacy issues affect the following groups: parents, immigrants, religious groups, HIV-positive and other immunocompromised health conditions, law enforcement, victims of domestic violence, and custodial parents?
12. How should registries ensure that privacy policies are followed?
13. Do you have any comment or recommendation for NVAC/CDC/HHS related to the implementation of the network of state and community-based registries and do you have any concerns?
14. Do you feel there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?
15. Given the mandate of Health Insurance Portability and Accountability Act to create a unique health identifier, how should that goal be achieved while minimizing the probability of inappropriate use of the identifier?
16. What steps can be taken to prevent unauthorized re-disclosure of information already provided to an organization or person?
17. What legal barriers exist which prevent data sharing by MCOs and how can they be obviated?
18. What mechanism should be available to allow parents to opt out of the registry?
19. What agency/organization should be responsible for maintaining registry information?
20. How should consent for inclusion in an immunization registry be obtained? Should it be implicit or explicit?
21. What information should be included in an immunization registry?
22. Should registries include (and release) information on contraindications, adverse events, etc.?
23. Who should have access to immunization registry data and how can restricted access be assured?
24. What information should be available to persons other than the client/patient and the direct health care provider (e.g., schools)?
25. What is the best way to protect privacy and ensure confidentiality within a registry?

26. How should individuals/parents have access to registry information on themselves/ their children?

27. Should data maintained in a state and community-based immunization registry be considered public information?

28. Would national privacy and confidentiality standards help ensure that data maintained in an immunization registry is protected?

Ensuring Provider Participation Questions To Be Considered

1. What type of resources (e.g., hardware, staff, etc.) are needed for you (provider/ organization) to participate in a computerized registry?

2. What are the cost-related barriers that keep you (provider/organization) from participating in an immunization registry?

3. What cost should providers be responsible for, pertaining to participation in immunization registry systems?

4. What are the cost savings you would anticipate as a result of participating in a computerized registry (e.g., increased return visit form reminders, less personnel paperwork for preschool exams, etc.)?

5. How much time would you be willing to invest per patient visit (e.g., additional 1, 5, 7, 10 minutes) in the overall success of an immunization registry?

6. What type of user support would be needed in order for you (provider/ organization) to participate in an immunization registry?

7. How would you (provider/organization) encourage providers and consumers in your community to participate in an immunization registry?

8. What community support would be necessary for you to participate in the immunization registry?

9. What benefits/value (e.g., immunization reminders, quick access to immunization histories, etc.) would a registry provide that would encourage your (provider/ organization) participation?

10. What incentives should be offered to providers/organizations to participate in an immunization registry?

11. What barriers have you (provider/ organization) encountered that have prevented you from participating in an immunization registry?

12. Is provider liability (e.g, disclosure of sensitive patient information) a barrier to participating in an immunization registry? Why?

13. How would an immunization registry impact your practice/organization?

14. Do you currently share immunization data with other providers electronically? For what purpose (e.g., billing, share group data, etc.)?

15. How (e.g., electronic record, paper record) is medical information maintained in your practice/organization?

16. Who should retain ownership of immunization records as they are distributed throughout an immunization registry?

17. How would you (provider/ organization) use the data maintained in an immunization registry?

18. What type of quality control process would you (provider/organization) perform to ensure the accuracy and completeness of the immunization data entered into an immunization registry?

19. What type of security policies and procedures need to be in place for you to be confident that data are secure?

20. What functions should a registry perform in your office in order for you (provider/organization) to participate?

21. Do you have any advice or recommendations for NVAC/CDC/HHS related to the implementation of the network of state and community-based registries and do you have any concerns?

22. Do you feel that there is a need for the Federal Government to provide leadership in developing state and community-based immunization registries? What should the role of the Federal Government be in this effort?

23. Have you received training on the use and maintenance of computerized medical information? Do you feel this training is needed to fully support the development and maintenance of immunization registries?

Contact Person for More Information: Robb Linkins, M.P.H., Ph.D., Chief, Systems Development Branch, Data Management Division, NIP, CDC, 1600 Clifton Road, NE, M/S E–62, Atlanta, GA 30333, telephone (404) 639–8728, e-mail rxl3@cdc.gov.

Dated: April 22, 1998.

Joseph E. Salter,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–11185 Filed 4–27–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 95D–0349]

Draft Guidance for Industry on SUPAC–IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled "SUPAC–IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum." This draft guidance is intended to provide insight and recommendations to pharmaceutical sponsors of new drug applications (NDA's) and abbreviated new drug applications (ANDA's) who wish to change equipment during the postapproval period.

DATES: Written comments may be submitted on the draft guidance document by June 29, 1998. General comments on agency guidance documents are welcome at any time.

ADDRESSES: Copies of this draft guidance are available on the Internet at "http://www.fda.gov/cder/guidance/index.htm." Written requests for single copies of the draft guidance for industry should be submitted to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Submit written comments on the draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: John L. Smith, Center for Drug Evaluation and Research (HFD–590), Food and Drug Administration, 9201 Corporate Blvd., Rockville, MD 20850, 301–827–2175.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a draft guidance for industry entitled "SUPAC–IR/MR: Immediate Release and Modified Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum." This draft guidance is intended to provide recommendations to pharmaceutical manufacturers using CDER'S Guidance for Industry on "Immediate Release Solid Oral Dosage Forms, Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls, In Vitro Dissolution Testing, and In Vivo Bioequivalence Documentation" (SUPAC–IR), which published in November 1995, and CDER's Guidance for Industry "SUPAC–MR: Modified Release Solid Oral Dosage Forms Scale-Up and Post-Approval Changes: Chemistry, Manufacturing and Controls; In Vitro Dissolution Testing and In Vivo Bioequivalence Documentation," which published in September 1997.

This draft guidance is a revision of the guidance entitled "SUPAC–IR: Immediate Release Solid Oral Dosage Forms, Manufacturing Equipment Addendum" that published in October 1997, and the draft guidance is intended to supersede the previously published guidance. The draft guidance includes information on equipment used to manufacture modified release solid oral dosage form products as well as immediate release solid oral dosage form products and may be used to determine what documentation should be submitted to FDA regarding equipment changes made in accordance with the recommendations in sections V and VI.A of the SUPAC–IR guidance

and in sections VI and VII of the SUPAC–MR guidance.

This draft guidance represents the agency's current thinking on scale-up and postapproval equipment changes for immediate release and modified release solid oral dosage forms regulated by CDER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statute, regulations, or both.

Interested persons may submit written comments on the draft guidance to the Dockets Management Branch (address above). 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. The draft guidance and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 20, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–11197 Filed 4–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0238]

Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices; Draft; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance entitled "Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices." This guidance is not final or in effect at this time. The purpose of this document is to suggest to the device manufacturer or investigation sponsor important information which should be presented in investigational device exemption (IDE) and premarket approval (PMA) applications in order to provide reasonable assurance of the safety and effectiveness of these devices for their intended uses.

DATES: Written comments concerning this guidance must be submitted by July 27, 1998.

ADDRESSES: Submit written requests for single copies on a 3.5" diskette of the draft guidance document entitled "Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices" to the Division of Small Manufacturers Assistance, Center for Devices and Radiological (HFZ–220), Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request, or fax your request to 301–443–8818. Written comments concerning this guidance document must be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. Comments should be identified with the docket number found in brackets in the heading of this document. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: John S. Goode, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2036.

SUPPLEMENTARY INFORMATION:

I. Background

The preparation of a guidance document for Bone Growth Stimulator applications was first initiated by the Division of Surgical and Rehabilitation Devices (DSRD) of the Office of Device Evaluation (ODE) in conjunction with the Division of Physical Sciences (DPS) and Life Sciences (DLS) of the Office of Science and Technology in 1985. The purpose of the document was to suggest to the device manufacturer or investigation sponsor important information which should be presented in IDE and PMA applications in order to provide reasonable assurance of the safety and effectiveness of these devices for their intended uses. The document went through extensive review by representatives of DSRD, DPS, DLS, the Orthopedic and Rehabilitation Devices (ORD) Advisory Panel, and industry representatives. Comments and recommendations generated by these reviews resulted in a revised draft document, which was presented for discussion during an open public session of the ORD Advisory Panel meeting held on October 31, 1986. Subsequent to the panel meeting, the Health Industry Manufacturers Association organized a task force which again reviewed the document and suggested changes to the Center for Devices and Radiological Health (CDRH) on February 15, 1988. As a result, a final guidance document was issued on August 12, 1988. This revised draft of the guidance document was initiated in response to discussions and correspondences with sponsors of bone growth stimulator devices and other interested parties, and it provides additional guidance detailing the ODE's present perspective on issues relating to these devices. The revised draft guidance will be considered by the ORD Advisory Panel in a meeting to be held on April 28, 1998, at 9200 Corporate Blvd., Rockville, MD.

II. Significance of Guidance

This guidance document represents the agency's current thinking on IDE and PMA applications for Bone Growth Stimulators. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the applicable statute, regulations, or both.

The agency has adopted Good Guidance Practices (GGP's), which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This draft guidance document is issued as a Level 1 guidance consistent with GGP's.

III. Electronic Access

In order to receive copies of the draft guidance document entitled "Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices" via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at second voice prompt press 2, and then enter the document number (487) followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the guidance document may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a

regular basis, the CDRH home page includes the draft guidance document entitled "Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices," device safety alerts, Federal Register reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at http://www.fda.gov/cdrh. The guidance document entitled "Guidance Document for Industry and CDRH Staff for the Preparation of Investigational Device Exemptions and Premarket Approval Applications for Bone Growth Stimulator Devices" will be available at http://www.fda.gov/cdrh/draftgui.html.

A text-only version of the CDRH Web site is also available from a computer or VT–100 compatible terminal by dialing 800–222–0185 (terminal settings are 8/1/N). Once the modem answers, press Enter several times and then select menu choice 1: FDA BULLETIN BOARD SERVICE. From there follow instructions for logging in, and at the BBS TOPICS PAGE, arrow down to the FDA home page (do not select the first CDRH entry). Then select Medical Devices and Radiological Health. From there select CENTER FOR DEVICES AND RADIOLOGICAL HEALTH for general information, or arrow down for specific topics.

IV. Comments

Interested persons may, on or before July 27, 1998, submit to Dockets Management Branch (address above) written comments regarding this draft guidance. 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. The guidance document and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1998.

D. B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 98–11158 Filed 4–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0233]

Guidance for Industry on PAC–ATLS: Postapproval Changes—Analytical Testing Laboratory Sites; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a guidance for industry entitled "PAC–ATLS: Postapproval Changes—Analytical Testing Laboratory Sites." This guidance provides recommendations to pharmaceutical sponsors of new drug applications (NDA's) and abbreviated new drug applications (ANDA's) who intend to change an analytical testing laboratory site for components, drug product containers, closures, packaging materials, in-process materials, or drug products during the postapproval period. This guidance is intended to ease the burden of notification, under certain circumstances, for analytical testing laboratory site changes currently requiring prior approval supplements under the human drug regulations.

DATES: Written comments may be submitted at any time.

ADDRESSES: Copies of this guidance for industry are available on the Internet at http://www.fda.gov/cder/guidance/index.htm. Submit written requests for single copies of the guidance for industry entitled "PAC–ATLS: Postapproval Changes—Analytical Testing Laboratory Sites," to the Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy B. Sager, Center for Drug Evaluation and Research (HFD–357), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–5629.

SUPPLEMENTARY INFORMATION: FDA is announcing the availability of a guidance for industry entitled "PAC–ATLS: Postapproval Changes—Analytical Testing Laboratory Sites." This guidance is intended to ease the burden of notification, under certain circumstances, for analytical testing laboratory site changes currently requiring prior approval supplements under § 314.70 (21 CFR 314.70). FDA regulations at § 314.70(a) provide that applicants may make changes to an approved application in accordance with a guidance, notice, or regulation published in the Federal Register that provides for a less burdensome notification of the change (for example, by notification at the time a supplement is submitted or in the next annual report).

This guidance for industry represents the agency's current thinking on postapproval changes in analytical testing laboratory sites. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the guidance to the Dockets Management Branch (address above). 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. The guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 21, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 98–11198 Filed 4–27–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting of National Advisory Environmental Health Sciences Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, May 18–19, 1998, Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public from 8:30 a.m. to approximately 3:20 p.m. on May 18 for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and

issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub L. 92–463, the meeting will be closed to the pubic from approximately 3:30 p.m. on May 18 to adjournment at 5:00 p.m. and on May 19 from 9:00 a.m. until adjournment at 12:00 p.m., for the review, discussion, and evaluation of individual grant application. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. Anne Sassaman, Director, Division of Extramural Research and Training, and Executive Secretary, National Advisory Environmental Health Sciences and Council, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541–7723, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos 93.113, Biological Response to Environmental Agents; 93.114, Applied Toxicological Research and Testing; 93115, Biometry and Risk Estimation; 93.894, Resource and Manpower Development, National Institutes of Health)

Dated: April 21, 1998.

LaVeen Ponds,

Policy Analyst, NIH.

[FR Doc. 98–11250 Filed 4–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 National Heart, Lung, and Blood Institute Special Emphasis Panel (SEP) meetings:

Name of SEP: Cardiovascular Benefits of Soy Phytoestrogens.

Date: May 4–5, 1998.

Time: 7:00 p.m.

Place: Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, Maryland 20879.

Contact Person: Anthony M. Coelho, Ph.D, Two Rockledge Center, Room 7194, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0288.

Purpose/Agenda: To review and evaluate grant applications.

This notice is being published less than fifteen days prior to this meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Lipoprotein(a) Standardization Program (Telephone Conference Call).

Date: May 20, 1998.

Time: 2:00 p.m. EDT.

Place: Two Rockledge Center, Room 7214, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Camille King, Ph.D, Two Rockledge Center, Room 7208A, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0321.

Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Review of Indepèndent Scientist Award (K02) and Mentored Clinical Scientist Development Award (K08) Applications.

Date: June 15, 1998.

Time: 8:00 a.m.

Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, Virginia 22209.

Contact Person: S. Charles Selden, Ph.D, Two Rockledge Center, Room 7196, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0288.

Purpose/Agenda: To review and evaluate grant applications.

Name of SEP: Public Access Defribrillation (PAD–1) Clinical Trial.

Date: June 23, 1998.

Time: 8:00 p.m.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, Maryland 20814.

Contact Person: Joyce A Hunter, Ph.D, Two Rockledge Center, Room 7192, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0287.

Purpose/Agenda: To review and evaluate contract proposals.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 21, 1998.

LaVeen Ponds,

Policy Analyst, NIH.

[FR Doc. 98–11253 Filed 4–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Genotypic & Phenotype Heterogenity in Dyslexia.

Date: May 7, 1998.

Time: 9:00 a.m.—adjournment.

Place: 6100 Executive Boulevard, DSR Conference Room, Rockville, Maryland 20852.

Contact Person: Scott Andres, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, Room 5E01, Rockville, MD 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review a research grant application.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of this application could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with this application, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institute of Health, HHS)

Dated: April 21, 1998.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 98–11251 Filed 4–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the

National Advisory Mental Health Council of the National Institute of Mental Health (NIMH) for May 1998.

The meeting will be open to the public, as indicated, for discussion of NIMH policy issues and will include current administrative, legislative, and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the contact person named below in advance of the meeting.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, a portion of the Council will be closed to the public as indicated below for the review, discussion and evaluation of individual grant applications. These applications, evaluations, and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Upon request the contact person will provide a summary of the meeting and a roster of committee members. Other information pertaining to the meeting may also be obtained from the contact person.

Name of Committee: National Advisory Mental Health Council.

Date: May 14–15, 1998.

Closed: May 14, 1:00 p.m. to recess.

Place: Conference Room D, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Open: May 15, 8:30 a.m. to adjournment.

Place: Conference Room 6, Building 31C, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Jane A. Steinberg, Ph.D., Parklawn Building, Room 9–105, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–3367.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: April 21, 1998.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 98–11252 Filed 4–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: ZDK1 GRB B C2.

Date: May 11, 1998.

Time: 1:00 pm.

Place: Room 6AS–25S, Natcher Building, NIH, (Telephone Conference Call).

Contact: Ned Feder, M.D., Scientific Review Administrator, Review Branch, DEA, NIDDK, Natcher Building, Room 6AS–25S, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8890.

Purpose/Agenda: To review and evaluate grant applications'.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personnel privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 21, 1998.

LaVeen Ponds,

Policy Analyst, NIH/CMO.

[FR Doc. 98–11254 Filed 4–27–98; 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 Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

The meeting will be open to the public, only for the time period indicated, to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ida Nestorio at 301–443–4376.

The meeting will be closed to the public, as indicated below, in accordance with the provisions set forth in sec. 552(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub. L. 92–463, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute of Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the productivity of individual staff scientist, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and the roster of committee members may be obtained from Ms. Ida Nestorio, National Institute on Alcohol Abuse and Alcoholism, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003. *Telephone:* 301–443–4376.

Other information pertaining to the meeting can be obtained from the Executive Secretary.

Name of Committee: Board of Scientific Counselors, NIAAA.

Executive Secretary: Benedict J. Latteri, 9000 Rockville Pike, Building 31—MSC 2088, Room 1B58, Bethesda, MD 20892–2088, 301–402–1227.

Date of Meeting: May 29, 1998.

Place of Meeting: Flow Building, Conference Room, 12501 Washington Avenue, Rockville, MD 20852.

Open: May 29, 8:30 a.m. to 9:00 a.m.

Agenda: Discussion of administrative details and other issues related to management of intramural program research.

Closed: May 29, 9:00 a.m. to adjournment.

Agenda: Review and evaluation of intramural research projects of the laboratory of molecular and cellular neurobiology.

Dated: April 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–11255 Filed 4–27–98; 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 Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Behavioral and Neurosciences.
Date: May 1, 1998.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5160, Telephone Conference.
Contact Person: Dr. Samuel Rawlings, Scientific Review Administrator, 6701 Rockledge Drive, Room 5160, Bethesda, Maryland 20892, (301) 435–1243.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Multidisciplinary Sciences.
Date: May 31–June 1, 1998.
Time: 7:00 p.m.
Place: Key Bridge Marriott, Arlington, VA.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1711.

Name of SEP: Behavioral and Neurosciences.
Date: June 22–23, 1998.
Time: 8:30 a.m.
Place: Ramada Inn, Rockville, MD.
Contact Person: Dr. Joe Marwah, Scientific Review Administrator, 6701 Rockledge Drive, Room 5188, Bethesda, Maryland 20892, (301) 435–1253.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 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: April 20, 1998.

LaVeen Ponds,

Acting Committee Management Officer, NIH.

[FR Doc. 98–11249 Filed 4–27–98; 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 Center for Scientific Review Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Microbiological and Immunological Sciences.
Date: May 5, 1998.
Time: 10:30 a.m.
Place: NIH, Rockledge 2, Room 4182, Telephone Conference.
Contact Person: Dr. William Branche, Scientific Review Administrator, 6701 Rockledge Drive, Room 4182, Bethesda, Maryland 20892, (301) 435–1148.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Clinical Sciences.
Date: May 20, 1998.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 4106, Telephone Conference.
Contact Person: Ms. Josephine Pelham, Scientific Review Administrator, 6701 Rockledge Drive, Room 4106, Bethesda, Maryland 20892, (301) 435–1786.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 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: April 22, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–11256 Filed 4–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration (SAMHSA)

Cooperative Agreement With the National Association of State Mental Health Program Directors

AGENCY: Center for Mental Health Services, SAMHSA, HHS.

ACTION: Cooperative agreement to support a technical assistance center for States in planning mental health services.

SUMMARY: This notice is to provide information to the public concerning a planned grant from the Center for Mental Health Services (CMHS) to the National Association of State Mental Health Program Directors to fund the Technical Assistance Center (TA Center) for State Mental Health Planning. If the application is recommended for approval by the Initial Review Group, and the CMHS National Advisory Council concurs, funds will be made available. This is not a formal request for applications. Assistance will be provided only to the National Association of State Mental Health Program Directors.

Authority/Justification

The cooperative agreement will be made under the authority of section 1948(a) of the Public Health Service Act, as amended (42 U.S.C. 300x–58). A single source award will be made to the National Association of State Mental Health Program Directors (NASMHPD) based on its close relationship with the single State mental health authorities (SMHAs). This relationship provides NASMHPD with a unique qualification to carry out the activities of this cooperative agreement, which require such an affiliation with the State agencies. As the organization representing all State mental health agencies, NASMHPD is the only organization whose membership is composed of the persons directly responsible for the administration of public mental health policies in the respective States. NASMHPD enjoys a full 59-State and territorial membership of the Mental Health Services Block Grant recipients, as well as a full, continuous, and fruitful communication with the leadership and staff of these agencies. It thus has staff who are uniquely knowledgeable about the needs of the States, and is in a unique position to assess the actual and verified needs of the States for technical assistance.

Background

One of the primary goals of the Community Mental Health Services Block Grant is to assist States in the creation of a comprehensive, community-based system of care for adults with severe mental illness and children with serious emotional disturbances. The burden of providing for mental health services lies primarily with the States. Block grant legislation requires CMHS to collaborate with the States in meeting this obligation by helping them to determine their needs and by cooperating with them in identifying appropriate technical assistance to help them in planning ways of meeting their programmatic obligations.

The primary goals of this program are:

(1) To assist States in the implementation of their mental health block grant plans and the enhancement of their comprehensive coordinated systems of care to better serve adults with severe mental illness and children with serious emotional disturbance;

(2) To promote the development of the Mental Health Planning Councils so they can assist the States in implementing mental health block grant plans and enhance their systems of care;

(3) To collaborate with stakeholders in the mental health system in the expansion and dissemination of knowledge and practices that will result in long-lasting improvements in the design, delivery, and evaluation of public mental health services;

(4) To assist States in developing mental health systems that are consumer oriented, sensitive to family member needs, and culturally competent;

(5) To be able to determine the "unmet need" and assist States in developing strategies to ensure that the gap is bridged between the need for services and service availability and delivery.

NASMHPD, through its needs assessment surveys, frequent contact in "meet me" telephone conferences, focus groups, semi-annual meetings, and electronic communication channels, can rapidly address information to the specific needs of the States, its members, and evaluate member response, and can communicate technical mental health information from the States to the TA Center and vice versa. Such capability provides a singular benefit to the States in that information that is invaluable to program success but generally unavailable because of Federal process requirements becomes available to States through NASMHPD's close organizational relationship with its members.

Because of its research activities, this organization is also able to identify the prime movers in the mental health field, and to enlist them in the creation of authority-articulated clinical, management, and fiscal model standards. Also through NASMHPD's membership, the TA Center's knowledge base and technical assistance extends to the State mental health planning councils, to block grant sub-recipient programs, and thence to consumers and their families.

Availability of Funds

The project will be for a 3-year period with $700,000 available for the first year. Future year funding will depend on the availability of funds and program performance.

FOR FURTHER INFORMATION CONTACT: Marie Danforth, M.S.W. or Velva Taylor Spriggs, L.I.S.W., CMHS/SAMHSA, Parklawn Building, Room 15C–26, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone (301) 443–4257.

Dated: April 21, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–11157 Filed 4–27–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–040–1610–00]

Draft Caliente Management Framework Plan Amendment and Environmental Impact Statement for the Management of Desert Tortoise Habitat

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Draft Caliente Management Framework Plan amendment and environmental impact statement for the management of desert tortoise habitat, Lincoln County, NV; and notice of 90 day public comment period.

SUMMARY: The Draft Plan Amendment/Environmental Impact Statement for the Caliente Management Framework Plan would implement management goals and actions for Bureau of Land Management (BLM)-administered desert tortoise habitat in Lincoln County, Nevada. The Mojave desert tortoise (Gopherus agassizii) was listed as a threatened species in 1990, based on declining numbers in some areas of its range. These goals and actions, recommended in the U.S. Fish and Wildlife Service's approved Desert Tortoise (Mojave Population) Recovery Plan, would assist the recovery and delisting of the desert tortoise in the Northeastern Mojave Recovery Unit. This amendment is required to comply with the Endangered Species Act of 1973 which mandates that all federal agencies will conserve and recover listed species within their administrative units. The accompanying EIS satisfies the National Environmental Policy Act, which mandates that federal agencies analyze the environmental consequences of major federal action.

The planning area for this amendment consists of approximately 754,600 acres of public land in southern Lincoln County, administered by the Caliente Field Station, within BLM's Ely District. No private lands would be directly affected by management direction described under the Proposed Action or alternatives. The planning area is located within the Northeastern Mojave Recovery Unit, as defined by the Recovery Plan. The document discusses several alternatives for the protection of desert tortoise habitat and recovery of the species.

DATES: Public Meetings will be held on June 17, 1998 at the Texas Station, 2101 Texas Star Lane in North Las Vegas, NV between 7 p.m. to 9 p.m. and on June 18, 1998 at the Caliente Youth Center in Caliente, NV between 7 p.m. and 9 p.m. The Caliente public meeting will be held in conjunction with the Mojave-Southern Great Basin Resource Advisory Council. Written comments on the Draft EIS will be accepted until August 14, 1998.

ADDRESSES: Public comments may be sent to: Bureau of Land Management, Ely Field Office, Gene L. Drais, Project Manager, HC 33 Box 33500, Ely, NV 98301–9408.

FOR FURTHER INFORMATION CONTACT: Write to the above address or call Gene L. Drais, Project Manager at (702) 289–1880.

SUPPLEMENTARY INFORMATION: The Proposed Action would assist desert tortoise recovery, while minimizing effects on human activities that occur within Desert Tortoise habitat. It includes recommendations derived from the Recovery Plan and public input, multiple use considerations, as well as management actions designed to be consistent with those proposed by adjacent BLM districts. The Proposed Action would: (1) Designate three Areas of Critical Environmental Concern (ACECs); (2) implement management prescriptions for desert tortoise habitat outside of the ACECs; (3) ensure BLM participation in a USFWS-developed environmental education program; and (4) implement a USFWS-approved interagency monitoring program. The three ACECs, totaling 212,500 acres, would protect 83 percent of designated critical habitat.

Management prescriptions, designed to improve desert tortoise habitat, would modify or restrict some multiple uses, including livestock grazing, off-highway vehicle recreation, land use authorizations, and mineral development within the ACECs. Section 7 consultation would continue to be conducted with the USFWS on any federal action that might affect listed species.

Alternative A (Habitat Management Alternative) contains management goals

and actions that are similar to the Proposed Action, with the exception of the management direction proposed for livestock grazing and recreation. Under this alternative, three ACECs would be designated and managed to achieve the recovery of the desert tortoise through modifications to multiple use within those special management areas. Livestock grazing within the ACECs would be managed according to forage production criteria intended to meet the desert tortoise recovery objectives. Recreation management direction would also be modified to minimize conflicts with recovery efforts. Section 7 consultation would continue to be conducted with the USFWS on any federal action that might affect listed species.

Alternative B (DWMA Alternative) contains most of the management goals and prescriptions recommended in the Recovery Plan, with less emphasis on multiple use management of the public lands. Two special management areas, labeled Desert Wildlife Management Areas (DWMAs), would protect 52 percent of the desert tortoise designated critical habitat. The DWMAs would contain approximately 300,800 acres and would be managed primarily for the recovery of the desert tortoise. Management prescriptions would not authorize livestock grazing, mineral development, many land use authorizations, and some types of recreational activities within the DWMAs. No special management attention, other than required Section 7 consultation on federal actions that might affect listed species, would be directed to the approximately 454,000 acres of desert tortoise habitat outside of the DWMAs, unless the desert tortoise populations occupying that habitat were in jeopardy.

Alternative C (No Action Alternative) would continue management under the approved Caliente MFP. Management recommendations from the Recovery Plan either would not be implemented or would not be systematically or comprehensively implemented. Section 7 consultation with the USFWS would continue to be conducted prior to the authorization of any federal action affecting listed species. Management direction would also be provided through the issuance of Biological Opinions by the USFWS through Section 7 consultation. Current management directions for livestock grazing and off-highway vehicle events were developed as a result of Biological Opinions issued to minimize effects on desert tortoise habitat. The No Action Alternative forms the baseline against which to assess the effects of the alternatives and is required for a comprehensive NEPA analysis.

Dated: April 15, 1998.

Robert V. Abbey,

State Director, Nevada.

[FR Doc. 98–11195 Filed 4–27–98; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging, HHS

[Program Announcement No. AoA–98–6]

Fiscal Year 1998 Program Announcement; Availability of Funds and Notice Regarding Applications

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for applications to carry out research on Alzheimer's disease caregiving options.

SUMMARY: The Administration on Aging (AoA) announces that under this program announcement it will hold a competition for a project to conduct research on Alzheimer's disease caregiving options and best practices, including respite care, assisted living, the impact of intervention by social service agencies on victims, and related caregiving options.

The deadline date for the submission of applications is June 29, 1998. Applicant eligibility for this grant competition is limited by the applicable funding provisions of the Omnibus Consolidated Appropriation Act of 1998 (P.L. 105–78) which, by incorporating both Senate Report 105–58 and House Report 105–390 (Conference Committee) provides $2 million "for social research into Alzheimer's disease care options * * *" The Senate Report urges that the research "utilize and give discretion to municipalities with aged populations (over the age of 60) of over 1 million * * *" Accordingly, under this AoA program announcement, to be eligible to compete an applicant must be designated by the Mayor as officially representing a municipality with 1 million or more persons 60 years of age and older.

Application kits are available by writing to the Department of Health and Human Services, Administration on Aging, Office of Program Development, 330 Independence Avenue, S.W., Room 4274, Washington, DC 20201, or by calling 202/619–1269.

Dated: April 23, 1998.

Jeanette C. Takamura,

Assistant Secretary for Aging.

[FR Doc. 98–11268 Filed 4–27–98; 8:45 am]

BILLING CODE 4150–40–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Submission of Study Package to the Office of Management and Budget; Opportunity for Public Comment

AGENCY: National Park Service, Interior.

ACTION: Notice of submission to OMB and request for comments for reinstatement, with change, of a previously approved collection for which approval has expired.

ABSTRACT: The survey is used by NPS for the purpose of collecting public interview data which are used to determine conversion factors used in converting electro-mechanical visitor counts into recreation visits.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service invites public comments on a proposed information collection request (ICR) which has been submitted to OMB for approval. Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

A 60 Day Notice of Request for Extension of a Currently Approved Collection of Information; Opportunity for Public Comment was published in the **Federal Register** on February 11, 1997, Volume 62, #28, page 6266. No replies were received from the public as a result of the **Federal Register** Notice. Past NPS interviewer experiences show that park visitors have a positive interest in participating in the surveys and in volunteering information in response to the survey questions. Due to streamlining the scope of the survey, there has been a reduction in 700 burden hours from the previously approved survey and as was indicated in the February 11, 1997 **Federal Register** Notice.

DATES: Public Comments will be accepted on or before May 28, 1998.

Send comments to: Office of Management and Budget, Office of Information and Regulatory Affairs, ATTN: Desk Officer for the Interior Department (1024–0036), Washington, DC 20503. Also send a copy of these comments to: Ms. Sandra D. Valdez, Statistical Administrator, Public Use Statistics Office, National Park Service, 12795 W. Alameda Parkway, Denver, CO 80225. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments thirty days from the date listed at the top of this page in the **Federal Register.**

All comments will become a matter of public record. Copies of the proposed ICR requirement can be obtained from Ms. Sandra D. Valdez, Statistical Assistant, Public Use Statistics Office, National Park Service, 12795 W. Alameda Parkway, Denver, CO 80225, (303) 987–6955.

SUPPLEMENTARY INFORMATION:

Title: Public Use Reporting.

Bureau Form Number: None.

OMB Number: 1024–0036.

Expiration Date of Approval: To be assigned.

Type of Request: Request for comments for reinstatement, with change, of a previously approved collection for which approval has expired.

Description of Need: The NPS needs information to determine conversion factors used in converting electro-mechanical visitor counts into recreation visits.

Automated Data Collection: At the present time, there is no automated way to gather this information, since it involves asking visitors questions about their park visit.

Description of Respondents: Samples of Individuals visiting parks.

Estimated Average Number of Respondents: 4,000 (400 at each of 10 parks).

Frequency of Response: One time per respondent.

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimate Average Burden Hours per Response: 3 minutes.

Estimated Annual Reporting Burden on Respondents: 200 hours.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–11186 Filed 4–27–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Submission of Study Package to Office of Management and Budget; Opportunity for Public Comment

AGENCY: Department of the Interior; National Park Service; and Mount Rushmore National Memorial.

ACTION: Notice and request for comments.

ABSTRACT: The National Park Service (NPS) Visitor Service Project and Mount Rushmore National Memorial propose to conduct visitor surveys to learn about visitor demographics and visitor opinions about services and facilities in Mount Rushmore National Memorial. The results of the surveys will be used by park managers to improve the service they provide to visitors while better protecting park natural and cultural resources. A study package that includes the proposed survey questionnaire for the proposed Mount Rushmore National Memorial study has been submitted to the Office of Management and Budget for review.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR part 1320, Reporting and Record Keeping Requirements, the NPS invites public comment on the proposed information collection request (ICR). Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The purpose of the proposed ICR is to document the demographics of visitors to Mount Rushmore National Memorial, to learn about the motivations and expectations these visitors have for their park visit, and to obtain their opinions regarding services provided by the park and the suitability of the visitor facilities maintained in the park. This information will be used by park planners and managers to plan; develop, and operate visitor services and facilities in ways that maximize use of limited park financial and personnel resources to meet the expectations and desires of park visitors.

There were no public comments received as a result of publishing in the **Federal Register** a 60 day notice of intention to request clearance of information collection for this survey.

DATES: Public comments will be accepted on or before May 28, 1998.

SEND COMMENTS TO: Office of Information and Regulatory Affairs of OMB, Attention Desk Officer for the Interior Department, Office of Management and Budget, Washington, DC 20530; and also to: Send comments to David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall 1530 N. Cleveland Ave., St. Paul, MN 55108. All comments will become a matter of public record. Copies of the proposed ICR requirement can be obtained from David W. Lime, Ph.D., Senior Research Associate, Cooperative Park Studies Unit, Department of Forest Resources, University of Minnesota, 115 Green Hall 1530 N. Cleveland Ave., St. Paul, MN 55108.

The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments thirty days from the date listed at the top of this page in the **Federal Register.**

FOR FURTHER INFORMATION OR A COPY OF THE STUDY PACKAGE SUBMITTED FOR OMB REVIEW, CONTACT: David Lime, phone: 612–624–2250.

SUPPLEMENTARY INFORMATION:

Title: Mount Rushmore National Memorial 1998 Visitor Use Survey.

Form: Not applicable.

OMB Number: To be assigned.

Expiration Date: To be assigned.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information concerning visitor demographics and visitor opinions about the services and facilities that the National Park Service provides at Mount Rushmore National Memorial for planning and management purposes.

The proposed information to be collected regarding visitors in this park is not available from existing records, sources, or observations.

Automated Data Collection: At the present time, there is no automated way

to gather this information, since it includes asking visitors to evaluate services and facilities that they used during their park visit.

Description of Respondents: A sample of visitors to Mount Rushmore National Memorial.

Esimated Average Number of Respondents: 400.

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Response: 20 minutes.

Frequency of Response: One time per respondent.

Estimated Annual Reporting Burden: 120 hours.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–11188 Filed 4–27–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of Draft Director's Order Concerning Donations and Fundraising Activities To Benefit the National Park Service

AGENCY: National Park Service, Interior.

ACTION: Notice of availability.

SUMMARY: The National Park Service (NPS) is converting and updating its current system of internal instructions. When these documents contain new policy or procedural requirements that may affect parties outside the NPS, this information is being made available for public review and comment. Draft Director's Order #21 establishes a comprehensive policy to guide NPS acceptance of private sector support.

DATES: Written comments will be accepted until June 29, 1998.

ADDRESSES: Draft Director's Order #21 is available on the Internet at http://www.nps.gov/refdesk/DOrders/index.htm. Requests for copies and written comments should be sent to Sue Waldron, National Park Service, Partnership Office, 1849 C Street, NW., Room 3128, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Sue Waldron at (202) 208–5477.

SUPPLEMENTARY INFORMATION: The NPS is revising the policies and procedures that guide its acceptance of donations and its relationships to those who desire to raise private sector support to benefit parks and programs. To accomplish this, the fundraising policies included in National Park Service Management Policies (1988) are being revised and Special Directive 95–12, Special Directive 89–2, Staff Directive 84–1, and the October 15, 1986, Policy on Fundraising and Philanthropy will be rescinded. The new policies for donations and fundraising will be issued as Director's Order #21, in conformance with the new system of NPS internal guidance documents.

Dated: April 17, 1998.

Katherine H. Stevenson,

Associate Director, Cultural Resource Stewardship and Partnerships.

[FR Doc. 98–11187 Filed 4–27–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 18, 1998. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, PO Box 37127, Washington, DC 20013–7127. Written comments should be submitted by May 13, 1998.

Beth Savage,

Acting, Keeper of the National Register.

Florida

Broward County

Link Trainer Building, 4050 SW 14th Ave., Ft. Lauderdale, 98000454

ILLINOIS

Carroll County

Franks, Charles, House, 34431 US 52, Lanark vicinity, 98000459

Cook County

Banta, Nathaniel Moore, House, 514 N. Vail Ave., Arlington Heights, 98000465

Jasper County

Embarras River Bridge, Wade Township Rd. 164 over Embarras R., Newton, 98000472

McDonough County

Western Illinois State Normal School Building, 1 University Cir., Macomb, 98000470

Stephenson County

Soldiers' Monument, 15 N. Galena Ave., Freeport, 98000461

Tazewell County

Cemetery Road Bridge, Candlewood Dr. within Glendale Cemetery, Washington, 98000467

IOWA

Hamilton County

Tremaine Bridge (Highway Bridges of Iowa MPS), 280th St. over Boone R., Webster City vicinity, 98000519

Hardin County

Alden Bridge (Highway Bridges of Iowa MPS) Main St. over Iowa R., Alden, 98000517

Coal Bank Hill Bridge (Highway Bridges of Iowa MPS), Near Co. Rd. VV over Iowa R., Eldora City vicinity, 98000527

Iowa Falls Bridge (Highway Bridges of Iowa MPS), US 65 over Iowa R., Iowa Falls, 98000516

River Street Bridge (Highway Bridges of Iowa MPS), River St. over Iowa R., Iowa Falls, 98000526

Washington Avenue Bridge (Highway Bridges of Iowa MPS), US 20 over Iowa R., Iowa Falls, 98000518

Henry County

Fish Creek Bridge (Highway Bridges of Iowa MPS), Hickory Rd. over Fish Cr., Salem vicinity, 98000524

Oakland Mills Bridge (Highway Bridges of Iowa MPS), Co. Rd. W55 over Skunk R., Oakland Mills State Park, 98000525

Humboldt County

Berkhimer Bridge (Highway Bridges of Iowa MPS), 245th St. over Des Moines R., Humboldt vicinity, 98000523

Des Moines River Bridge (Highway Bridges of Iowa MPS), IA 3 over West Fork of Des Moines R., Humbolt vicinity, 98000522

Jasper County

Red Bridge (Highway Bridges of Iowa MPS), Co.Rd. S74 over South Skunk R., Monroe vicinity, 98000521

Johnson County

Sutliff Bridge (Highway Bridges of Iowa MPS), Sutliff Rd. over Cedar R., Iowa City vicinity, 98000520

Jones County

Fremont Mill Bridge (Highway Bridges of Iowa MPS), Pedestrian path over small pond in Central Park, Anamosa vicinity, 98000537

Hale Bridge (Highway Bridges of Iowa MPS), 100th St. over Wapsipinicon R., Oxford Junction vicinity, 98000539

Lower Road Bridge (Highway Bridges of Iowa MPS), Buffalo Rd. over branch of Wapsipinicon R., Anamosa vicinity, 98000536

Moore's Ford Bridge (Highway Bridges of Iowa MPS), 25th Ave. over White Water Cr., Monticello City vicinity, 98000538

Kossuth County

Des Moines River Bridge (Highway Bridges of Iowa MPS), Co. Rd. P14 over East Fork of Des Moines R., Swea City vicinity, 98000535

Lee County

Bridgeport Bridge (Highway Bridges of Iowa MPS), Old Quarry Rd., Denmark vicinity, 98000533

Linn County

Bertram Bridge (Highway Bridges of Iowa MPS), Ely St. over Big Cr., Bertram, 98000531
Chain Lakes Bridge (Highway Bridges of Iowa MPS), Pedestrian trail over Cedar R., Hiawatha vicinity, 98000529
First Avenue Bridge (Highway Bridges of Iowa MPS), US 151 over Cedar R., Cedar Rapids, 98000530
IANR Railroad Underpass (Highway Bridges of Iowa MPS), Ely Rd., Cedar Rapids, 98000528
Indian Creek Bridge (Highway Bridges of Iowa MPS), Artesian Rd. over Indian Cr., Cedar Rapids vicinity, 98000514
Indian Creek Bridge (Highway Bridges of Iowa MPS), Artesian Rd. over Indian Cr., Marion vicinity, 98000515
Matsell Bridge (Highway Bridges of Iowa MPS), Natsell Park Rd. over Wapsipinicon R., Springville vicinity, 98000534
Upper Paris Bridge (Highway Bridges of Iowa MPS), Sutton rd. over Wapsipinicon R., Coggin vicinity, 98000532

Louisa County

County Line Bridge (Highway Bridges of Iowa MPS), 140th Blk., County Line Rd. over Long Cr., Columbus Junction vicinity, 98000513
Gipple's Quarry Bridge (Highway Bridges of Iowa MPS), 100 Blk. V Ave. over Buffington Cr., Columbus Junction vicinity, 98000512

Lucas County

Burlington Railroad Overpass (Highway Bridges of Iowa MPS), Co. Rd. S23 over Burlington Northern RR, Chariton vicinity, 98000511

Lyon County

Klondike Bridge (Highway Bridges of Iowa MPS), 180th St. over Big Sioux R., Larchwood vicinity, 98000510

Madison County

Cunningham Bridge (Highway Bridges of Iowa MPS), Upland Trail over North R., Bevington vicinity, 98000509
Miller Bridge (Highway Bridges of Iowa MPS), McBride Trail over unnamed stream, Winterset vicinity, 98000508
Morgan Bridge (Highway Bridges of Iowa MPS), Maple Lane over branch of Clanton Cr., Peru vicinity, 98000507

Mahaska County

Bellefountain Bridge (Highway Bridges of Iowa MPS), Ashland Ave. over Des Moines R., Tracy vicinity, 98000506
Bridge near New Sharon (Highway Bridges of Iowa MPS), Co. Rd. G29 over drainage ditch, New Sharon vicinity, 98000505
Eveland Bridge (Highway Bridges of Iowa MPS), Fulton Ave. over Des Moines R., Oskaloosa vicinity, 98000504
North Skunk River Bridge (Highway Bridges of Iowa MPS), Co. Rd. G13 over North Skunk R., New Sharon vicinity, 98000503

Marion County

Hammond Bridge (Highway Bridges of Iowa MPS), 170th Pl. over North Cedar Cr., Hamilton vicinity, 98000500
Harvey Railroad Bridge (Highway Bridges of Iowa MPS), Harvey Island Rd., Harvey vicinity, 98000502
Wabash Railroad Bridge (Highway Bridges of Iowa MPS), 216th Pl. over Des Moines R., Pella vicinity, 98000501

Marshall County

Le Grand Bridge (Highway Bridges of Iowa MPS), Co. Rd. T37 over backwater of Iowa R., Le Grand vicinity, 98000499
Minerva Creek Bridge (Highway Bridges of Iowa MPS), Co. Rd. S52 over Minerva Cr., Clemons vicinity, 98000497
Quarry Bridge (Highway Bridges of Iowa MPS), Co. Rd. I–4 over Iowa R., Marshalltown vicinity, 98000498

Mills County

Nishnabotna River Bridge (Highway Bridges of Iowa MPS), Co. Rd. M16 over Nishnabotna R., Henderson vicinity, 98000496

Mitchell County

Otranto Bridge (Highway Bridges of Iowa MPS), 480th Ave. over Big Cedar R., St. Ansgar vicinity, 98000495

Montgomery County

Nodaway River Bridge (Highway Bridges of Iowa MPS), Pedestrian path in Pilot Grove County Park, Grant vicinity, 98000494

Muscatine County

Big Slough Creek Bridge (Highway Bridges of Iowa MPS), Bancroft Ave. over Big Slough Cr., Nichols vicinity, 98000492
Bridge near West Liberty (Highway Bridges of Iowa MPS), 130th St. over unnamed stream, West Liberty vicinity, 98000491
Pine Mill Bridge (Highway Bridges of Iowa MPS), over Pine Cr. in Wildcat Den State Park, Muscatine vicinity, 98000493

Polk County

Court Avenue Bridge (Highway Bridges of Iowa MPS), Court Ave. over Des Moines R., Des Moines, 98000489
Herrold Bridge (Highway Bridges of Iowa MPS), NW 88th Ave. over Beaver Cr., Herrold vicinity, 98000490
Southwest Fifth St. Bridge (Highway Bridges of Iowa MPS), SW Fifth St. over Raccoon R., Des Moines, 98000487

Poweshiek County

McDowell Bridge (Highway Bridges of Iowa MPS), River Rd. over North Skunk R., Montezuma vicinity, 98000488

Story County

Calamus Creek Bridge (Highway Bridges of Iowa MPS), 325th St. over Calamus Cr., Maxwell vicinity, 98000486
East Indian Creek Bridge (Highway Bridges of Iowa MPS), 260th St. over East Indian Cr., Nevada vicinity, 98000485
Keigley Branch Bridge (Highway Bridges of Iowa MPS), 550th St. over Keigley Branch, Gilbert vicinity, 98000483
Skunk River Bridge (Highway Bridges of Iowa MPS), 255th St. over Skunk R., Ames vicinity, 98000484

Tama County

Chambers Ford Bridge (Highway Bridges of Iowa MPS), 385th St. over Iowa R., Chelsea vicinity, 98000482
Le Grand Bridge (Highway Bridges of Iowa MPS), Abbot Ave. over Iowa R., Le Grand vicinity, 98000481
Toledo Bridge (Highway Bridges of Iowa MPS), Ross St. over Deer Cr., Toledo, 98000480

Union County

Grand River Bridge (Highway Bridges of Iowa MPS), 230th St. over Grand R., Arispe vicinity, 98000479

Van Buren County

Eisenhower Bridge (Highway Bridges of Iowa MPS), 3 miles E. of Co. Rd. V56, Milton vicinity, 98000478
Keosauqua Bridge (Highway Bridges of Iowa MPS), IA 1 over Des Moines R., Keosauqua, 98000476
Kilbourn Bridge (Highway Bridges of Iowa MPS), 3 miles W. of IA 1, Kilbourn, 98000477

Wapello County

Jefferson Street Viaduct (Highway Bridges of Iowa MPS), Jefferson St. over Des Moines R., Ottumwa, 98000475

Warren County

Coal Creek Bridge (Highway Bridges of Iowa MPS), 2404 Fillmore St. over Coal Cr., Carlisle vicinity, 98000473

Washington County

CM and StP Railroad Underpass (Highway Bridges of Iowa MPS), Co. Rd. G38 over Soo RR, Washington vicinity, 98000469
Rubio Bridge (Highway Bridges of Iowa MPS), Over Skunk R., Rubio vicinity, 98000471

Winneshiek County

Fort Atkinson Bridge (Highway Bridges of Iowa MPS), 150th St. over Turkey R., Fort Atkinson, 98000460
Gilliece Bridge (Highway Bridges of Iowa MPS), Cattle Creek Rd. over Upper Iowa R., Bluffton vicinity, 98000464
Lawrence Bridge (Highway Bridges of Iowa MPS), 330th Ave. over Little Turkey R., Jackson Junction, 98000462
Ten Mile Creek Bridge (Highway Bridges of Iowa MPS), Happy hollow Rd. over Ten Mile Cr., Decorah vicinity, 98000466
Turkey River Bridge (Highway Bridges of Iowa MPS), Little Church Rd. over Turkey R., Festina vicinity, 98000468
Upper Bluffton Bridge (Highway Bridges of Iowa MPS), Ravine Rd. over Upper Iowa R., Bluffton, 98000458

Wright County

Boone River Bridge (Highway Bridges of Iowa MPS), Buchanan Ave. over Boone R., Goldfield vicinity, 98000457
Cornelia Lake Bridge (Highway Bridges of Iowa MPS), Over inlet of Cornelia Lake, Clarion vicinity, 98000455

Goldfield Bridge (Highway Bridges of Iowa MPS), Oak St. over Boone R., Goldfield, 98000456

LOUISIANA

Vernon Parish Burr's Ferry Bridge, LA 8 at the TX state line, Burr Ferry vicinity, 98000563

MARYLAND

Wicomico County

Maple Leaf Farm Potato House, 26632 Porter Mill Rd., Hebron vicinity, 98000544

MASSACHUSETTS

Barnstable County

Paine Hollow Road South Historic District, Roughly along Paine Hollow Rd., and 0 Raywid Way, Wellfleet, 98000540
Sunders—Paine House, 260 Paine Hollow Rd., Wellfleet, 98000474
Townsend House, 290 Paine Hollow Rd., Wellfleet, 98000542

Middlesex County

Lowell Cemetery, 984 Lawrence St., Lowell, 98000543
Wannalancit Street Historic District, 14–71 Wannalancit St., and 390, 406 Pawtucket St., Lowell, 98000541

NEW YORK

Albany County

District School No. 1, NY 144, Bethlehem, 98000553

Erie County

Spaulding—Sidway Boathouse, 2296 W. Oakfield Rd., Grand Island, 98000552

Oneida County

Vernon Methodist Church, ct. of NY 5 and Sconondoa St., Vernon, 98000547

Orange County

Randel, Culver, House and Mill, 65 Randall St., Florida, 98000554

Saratoga County

Oakcliff, 78 Church Hill Rd., Crescent, 98000548

Tioga County

Hiawatha Farm, 2293 NY 17C, Owego, 98000551

Ulster County

Dubois—Kierstede Stone House, 119 Main St., Saugerties, 98000550

Warren County

Sanford House, 749 Ridge Rd., Queensbury, 98000549

NORTH CAROLINA

Alamance County

Saxapahaw Spinning Mill, Former, 1647 Saxapahaw Bethlehem Church Rd., Saxapahaw, 98000546

Macon County

Wilson Log House (Macon County MPS), NC 1621, 1.4 mi. NW. of jct. with NC 1620, Highlands vicinity, 98000545

OHIO

Mahoning County

Forest Glen Estates Historic District, Roughly bounded by Homestead Dr., Glenwood Ave., Alburn Dr., and Market St., Boardman Township, 98000565

PENNSYLVANIA

Fulton County

Burnt Cabins Historic District (Lincoln Highway Heritage Corridor Historic Resources:Franklin to Westmoreland Co. MPS), LR23905 and US 522, Dublin, 98000566

SOUTH CAROLINA

Anderson County

Anderson College Historic District, 316 Boulevard Ave., Anderson, 98000556

Dillon County

Latta Downtown Historic District (Latta MRA), Roughly along E. and W. Main Sts., Latta, 98000555

Edgefield County

Bettis Academy and Junior College, Jct. of Bettis Academy Rd. and Nicholson Rd., Trenton vicinity, 98000560

Greenville County

West End Commercial Historic District (Boundary Increase), 631 S. Main St., Greenville, 98000559

Greenwood County

Greenville Presbyterian Church, Greenville Church Rd., Donalds vicinity, 98000561

Oconee County

Keil Farm, 178 Keil Farm Rd., Walhalla vicinity, 98000557

Spartanburg County

New Hope Farm, 10088 Greenville Hwy., Wellford, 98000558

TEXAS

Newton County

Burr's Ferry Bridge, TX 63 at the LA state line, Burkeville vicinity, 98000562

WISCONSIN

Washington County

Schwartz Ballroom, 700 S. Main St., Hartford, 98000564

[FR Doc. 98–11194 Filed 4–27–98; 8:45 am]

BILLING CODE 4310–70–P

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Acceptance of the American Schools and Hospitals Abroad (ASHA) Application for Assistance

SUMMARY: This applicant notice is for private U.S. organizations requesting grant assistance for overseas institutions under section 214 of the Foreign Assistance Act. "Applicant" refers to the United States founder or sponsor of the overseas institution.

The Office of American Schools and Hospitals Abroad (ASHA) will accept applications for assistance in fiscal year 1999 and beyond, if received by ASHA on or before June 30, for the next fiscal year.

FOR FURTHER INFORMATION CONTACT: The Office of American Schools and Hospitals Abroad (ASHA), (202) 712–0510.

SUPPLEMENTARY INFORMATION:

Title: American Schools and Hospitals Abroad.

Form No.: A.I.D.1010–2.

OMB No.: 0512–0011.

Type of Submission: Acceptance of Application for Assistance.

Abstract: The application is used by U.S. founders and sponsors in applying for grant assistance from ASHA on behalf of their institution(s) overseas. ASHA is a competitive grant program. Decisions are based on an annual comparative review of all applications requesting assistance in the fiscal year, pursuant to Section 214 of the Foreign Assistance Act, as amended.

Annual Reporting Burden:

Respondents: U.S. Not-for-profit organizations.

Number of Respondents: 85.

Estimated Total Annual Hour Burden on Respondents: 12.

Dated: April 10, 1998.

Mable S. Meares,

Director, Office of American Schools and Hospitals Abroad, Bureau for Humanitarian Response.

[FR Doc. 98–11222 Filed 4–27–98; 8:45 am]

BILLING CODE 6116–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Docket 98–059]

NASA Advisory Council (NAC), Task Force on the Shuttle-Mir Rendezvous and Docking Missions; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces an open meeting of the NAC Task Force on the Shuttle-Mir Rendezvous and Docking Missions. Some members of the Task Force will be participating via telecon.

DATES: May 20, 1998, 1:00 p.m. to 4:00 p.m. Central Daylight Time.

ADDRESS: Lyndon B. Johnson Space Center, National Aeronautics and Space Administration, Building 1, Room 920L, Houston, TX 77058–3696.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis McSweeney, Code IH, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4556.

SUPPLEMENTARY INFORMATION: This meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Review the readiness of the STS–91 Shuttle-Mir Rendezvous and Docking Mission.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: April 22, 1998.

Mathew M. Crouch,

Advisary Cammittee Management Officer, Natianal Aeranautics and Space Administration.

[FR Doc. 98–11267 Filed 4–27–98; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Long Term Durability of Materials and Structures; Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act Public Law 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Long Term Durability of Materials and Structures (1205).

Date & Time: May 14, 18, and 19, 1998; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 310, 375, 410, 530, 580, 1020 and 1295 Arlington, Virginia 22230.

Cantact Persan: Dr. Jorn Larsen-Basse, Program Director, Control, Materials and Mechanics Cluster, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230. 703/306–1361, x 5073.

Purpose af Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Long-Term Durability of Materials and Structures research proposals as part of the selection process for awards.

Reason for Clasing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government Sunshine Act.

Dated: April 23, 1998.

M. Rebecca Winkler,

Cammittee Management Officer.

[FR Doc. 98–11202 Filed 4–27–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Social, Behavioral, and Economic Sciences (1171).

Date and Time: May 20, 1998; 9 a.m.–5 p.m.; May 21, 1998; 9 a.m.–3:30 p.m.

Place: NSF, Room 1235, NSF, 4201 Wilson Blvd., Arlington, Va. 22230.

Type af Meeting: Open.

Cantact Persan: Ms. Catherine J. Hines, Executive Secretary; Directorate for Social, Behavioral, and Economic Sciences, NSF, Suite 905; 4201 Wilson Blvd., Arlington, Va. 22230. Telephone: (703) 306–1741.

Minutes: May be obtained from the contact person listed above.

Purpose af Meeting: To provide advice and recommendations to the National Science Foundation on major goals and policies pertaining to SBE programs and activities.

Agenda: Discussions on issues, role, and future direction of the NSF Directorate for Social, Behavioral and Economic Sciences.

Dated: April 23, 1998.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 98–11201 Filed 4–27–98; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL TRANSPORTATION SAFETY BOARD

Sunshine Act Meeting

TIME AND DATE: 9:30 a.m., Tuesday, May 5, 1998.

PLACE: NTSB Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

5299D—"Most Wanted" Safety Recommendation Program Status Report and Suggested Modification

6773A—Marine Special Investigation Report—Postaccident Alcohol and Other Drug Testing in the Marine Industry and the Ramming of the Portland South Portland Bridge at Portland, Maine, by the Liberian Tankship Julie N on September 27, 1996

6996—Highway/Hazardous Material Summary Report—Collision and Fire of Tractor/Cargo Tank Semitrailer and Passenger Vehicle, October 9, 1997

NEWS MEDIA CONTACT: Telephone (202) 314–6100.

FOR MORE INFORMATION CONTACT: Rhonda Underwood, (202) 314–6065.

Dated: April 24, 1998.

Rhonda Underwood,

Federal Register Liaisan Officer.

[FR Doc. 98–11442 Filed 4–24–98; 3:43 pm]

BILLING CODE 7533–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* "Licensee Event Report".

3. *The form number if applicable:* NRC Form 366.

4. *How often the collection is required:* On occasion.

5. *Who will be required or asked to report:* Holders of Operating Licenses for Commercial Nuclear Power Plants.

6. *An estimate of the number of responses:* 1,600 per year.

7. *The estimated number of annual respondents:* 109 Holders of Operating Licenses for Commercial Nuclear Power Plants.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* Approximately 50 hours per response. The total industry burden is 80,000 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* Not Applicable

10. *Abstract:* NRC collects reports of operational events at commercial nuclear power plants in order to incorporate lessons of that experience in

the licensing process and to feed back the lessons of that experience to the nuclear industry.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov) under the FedWorld collection link on the home page tool bar. The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer by May 28, 1998: Erik Godwin, Office of Information and Regulatory Affairs (3150–0104), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3084.

The NRC Clearance Officer is Brenda Jo Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 21st day of April 1998.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–11245 Filed 4–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–293]

Boston Edison Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–35, issued to Boston Edison Company (BECo/the licensee), for operation of the Pilgrim Nuclear Power Station located in Plymouth, Massachusetts.

The proposed amendment would modify Technical Specification (TS) Section 3.6.A.1 to remove the requirement that the reactor vessel flange and adjacent shell differential temperature be monitored during heatup and cooldown events and also removes the 145 degrees Fahrenheit differential temperature limit.

By letter dated April 8, 1998, the licensee requested that the proposed TS change be reviewed under exigent circumstances. A normal plant cooldown under current TS requirements would require monitoring reactor vessel shell flange temperature to maintain the vessel flange to adjacent vessel shell differential temperature at less than 145 degrees Fahrenheit. However, the current condition of the vessel shell flange thermocouples prohibits accurate monitoring of the metal surface temperature to meet this TS requirement. The thermocouples are considered inoperable due to inconsistencies in their readouts. Because the need for plant shutdown and cooldown cannot be forecasted in advance, BECo has requested review of the submitted change under exigent circumstances to avoid a future short-notice request and possible violation of current TS requirements. BECo has made a good faith effort to prepare the proposed license amendment for NRC approval as expeditiously as practicable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

a. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The recent analysis, Ref.[10], [see application dated March 25, 1998] has shown design and licensing bases for reactor vessel integrity will be maintained, and results supporting the T. S. change show the conclusions reached remain unchanged from previous conclusions reached in Ref.[3] [see application dated March 25, 1998] and as described in the [final safety analysis report] FSAR, Ref.[1] [see application dated March 25, 1998]. Structural integrity for design basis loading conditions is assured, based on the results of Ref.[10] [see application dated March 25, 1998]. The ability to control plant heatup and cooldown rates has been shown by analysis to be unaffected by the removal of this T. S. requirement. This has been confirmed by initial startup testing results and the past 25 years of service.

b. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

T/C's [thermocouples] used to monitor reactor vessel flange to adjacent shell DT [differential temperature] are used only during normal startup and shutdown conditions, and removal of the T. S. requirement to monitor this differential temperature will have no affect on the design basis accident conditions. Moderator temperature and pressure are monitored and, in the event fluid ramp rates exceed design basis requirements, an evaluation must be performed to determine the effect on structural integrity of the reactor vessel and components. ASME Code Section XI, Appendix E, Ref. [11] [see application dated March 25, 1998], provides a method for evaluating an operating event that causes excursion outside these limits.

c. The proposed amendment does not involve a significant reduction in the margin of safety.

Stress and fracture toughness calculations, Ref.[10] [see application dated March 25, 1998], have shown removal of the T. S. DT requirement will not increase levels above the conservative design basis limits previously established in the analysis of record, Ref.[3] [see application dated March 25, 1998], or those stated in the FSAR, Ref.[1] [see application dated March 25, 1998]. The loadings used to determine stresses are the same provided by the original equipment designer and manufacturer. The calculated stress levels and fatigue damage assessment for the existing condition are essentially unchanged from the values reported in the reactor vessel analysis of record, Ref.[3] [see application dated March 25, 1998]. The results of the recent analysis, Ref.[10] [see application dated March 25, 1998], show that the margins of safety, as defined in the bases for the Pilgrim T. S. and the FSAR, are not reduced and vessel integrity will be maintained during all normal and transient conditions previously analyzed and reported in the FSAR.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would

result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 28, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to W.S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, Boston, Massachusetts 02199, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(I)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 25, 1998, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Dated at Rockville, Maryland, this 22nd day of April 1998.

For the Nuclear Regulatory Commission.

Alan B. Wang,

Project Manager, Project Directorate I–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11247 Filed 4–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–413 and 50–414]

Duke Energy Corporation, et al.; Notice of Partial Denial of Amendments to Facility Operating Licenses and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Duke Energy Corporation (the licensee) for amendments to Facility Operating License (FOL) Nos. NPF–35 and NPF–52, issued to the licensee for operation of the Catawba Nuclear Station, Unit Nos. 1 and 2, located in York County, South Carolina. Notice of Consideration of Issuance of Amendments was published in the **Federal Register** on February 11, 1998 (63 FR 6983).

The licensee's application of December 18, 1997, as revised by a letter dated January 28, 1998, proposed numerous changes to the FOLs. The licensee proposed to revise the FOLs to delete license conditions that have been fulfilled, to update information to reflect current plant status and regulatory requirements, and to make other correctional, clarifying, or editorial changes. The staff issued amendments to the FOLs, accepting most of the proposed changes. The balance of the proposed changes were not accepted by the staff. The changes that were not accepted are summarized as follows:

1. For the license conditions that have been fulfilled, and the exemptions that are no longer needed, the licensee proposed to have them deleted entirely from the FOLs. The staff, however, believes that indications should be left in the FOLs to provide easy reference to these past license conditions and exemptions. The staff preserved the license condition and exemption numbers with the word "Deleted" following in parentheses. Further, the staff did not renumber those license conditions still in existence. Hence, the licensee's proposed changes are partially denied.

2. The licensee proposed to modify the statement that described the construction status as "has been substantially completed" to "was completed." The staff surveyed FOLs granted to other facilities, and found that the expression "has been substantially" is used in each FOL, and its meaning is thus established by such repeated use. The licensee has not provided any reason for the proposed change, other than stating that this is an administrative change to "update the FOL to the current historical status." Thus, this proposed change is denied.

3. The licensee proposed to delete the reference to the Environmental Report, as supplemented, from the FOLs. The licensee gave no justification for deleting the reference to the Environmental Report, which has been required by the National Environmental Policy Act and 10 CFR Part 51, and was a significant part of the basis for granting the FOLs. This proposed change is denied.

4. The licensee proposed to delete any reference to revision numbers to security plans since these security plans are subject to change periodically. However, 10 CFR 50.54(p) has set forth the conditions under which the licensee may make changes without NRC approval, such that the specified revision numbers do not prevent the licensee from making such changes. Hence, the licensee's proposal to omit revision numbers and dates is denied.

The NRC staff has concluded that the licensee's proposed changes described above are unacceptable and are denied. The licensee was notified of the staff's denial by letter dated April 23, 1998.

By May 28, 1998, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written request for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Paul R. Newton, Duke Energy Corporation, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendments dated December 17, 1997, and (2) the Commission's letter to the licensee dated April 23, 1998, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC. and at the local public document room located at the York County Library, 138 East Black Street, Rock Hill, South Carolina 29730.

Dated at Rockville, Maryland, this 23rd day of April 1998.

For the Nuclear Regulatory Commission.

Peter S. Tam,

Senior Project Manager, Project Directorate II–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11248 Filed 4–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–259]

The Tennessee Valley Authority; Notice of Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by the Tennessee Valley Authority (licensee), for an amendment to Facility Operating License No. DPR–33 issued to the licensee for operation of the Browns Ferry Nuclear Plant, Unit No. 1, located in Limestone County, Alabama. Notice of Consideration of Issuance of this amendment was published in the **Federal Register** on February 15, 1997 (62 FR 2194).

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to permit increasing the main steam safety/relief valve set point tolerance to plus or minus 3%.

The NRC staff has concluded that the licensee's request to increase the main steam safety relief valve set point tolerance cannot be granted at this time. The licensee was notified of the Commission's denial of the proposed change by a letter dated April 22, 1998.

By May 28, 1998, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General

Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated December 11, 1996, and (2) the Commission's letter to the licensee dated April 22, 1998.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Athens Public Library, 405 E. South Street, Athens, Alabama.

Dated at Rockville, Maryland, this 22 day of April 1998.

For The Nuclear Regulatory Commission.

Frederick J. Hebdon,

Director, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–11246 Filed 4–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Nuclear Regulatory Commission.

DATE: Weeks of April 27, May 4, 11, and 18, 1998.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of April 27

Wednesday, April 29

11:30 a.m.—Affirmation Session (PUBLIC MEETING)
a: Final Rule: Requirements for Shipping Packages Used to Transport Vitrified High-Level Waste

Thursday, April 30

9:00 a.m.—Briefing on Investigative Matters (Closed—Ex. 5 and 7)
2:00 p.m.—Discussion of Management Issues (Closed—Ex. 2 and 6)

Friday, May 1

8:30 a.m.—* Briefing on Selected Issues Related to Proposed Restart of Millstone Unit 3. (PUBLIC MEETING), (Contact: Bill Travers, 301–415–1200)
1:00 p.m.—Continuation of Millstone meeting

Week of May 4—Tentative

There are no meetings the week of May 4.

Week of May 11—Tentative

Wednesday, May 13

10:30 a.m.—Affirmation Session (PUBLIC MEETING), (if needed)

***Note:** A follow-on meeting to discuss the remaining issues related to Millstone Unit 3 restart will be held at a later date.

Week of May 18—Tentative

Thursday, May 21

11:30 a.m.—Affirmation Session (PUBLIC MEETING), (if needed)

* The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1929. Contact person for more information: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at:

http://www.nrc.gov/SECY/smj/schedule.htm

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* * * * *

Dated: April 24, 1998.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 98–11403 Filed 4–24–98; 3:04 pm]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Placement Service.

(2) *Form(s) submitted:* ES–2, ES–20a, ES–20b, ES–21, ES–21c, UI–35, and Job Vacancies Report.

(3) *OMB Number:* 3220–0057.

(4) *Expiration date of current OMB clearance:* 7/31/1998.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Individuals or households, Business or other for profit.

(7) *Estimated annual number of respondents:* 13,750.

(8) *Total annual responses:* 27,000.

(9) *Total annual reporting hours:* 1,494.

(10) *Collection description:* Under the RUIA, the Railroad Retirement Board provides job placement assistance for unemployed railroad workers. The collection obtains information from job applicants, railroad and non-railroad employers, and State Employment Service offices for use in placement, for providing referrals for job openings, reports of referral results, and for verifying and monitoring claimant eligibility.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Officer Building, Washington, DC 10503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 98–11223 Filed 4–27–98; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39890; File No. SR–BSE–97–04]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto Relating to Stop Orders and Stop Limit Orders in Solely Listed Issues

April 20, 1998.

On September 4, 1997, the Boston Stock Exchange, Inc. ("BSE" 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 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt a new Supplementary Material to Section 3 of Chapter 1 of the Exchange Rules of govern the activation criteria for stop orders and stop limit orders in sole listed issues where the triggering executions do not occur on the Exchange. The Exchange subsequently filed Amendment No. 1 to the proposed rule change on September 15, 1997.[3]

The proposed rule change, including Amendment No. 1, was published for comment in the **Federal Register** on October 8, 1997.[4] No comments were received on the proposal. The Exchange subsequently filed Amendment No. 2 to the proposed rule change on November 7, 1997.[5] This order approves the proposal, as amended.

The BSE is proposing to adopt a new Supplementary Material to guide Exchange specialists and customers in the appropriate activation stop orders and stop limit orders in sole listed issues. Due to the frequency with which the Exchange's sole listed issues trade through Nasdaq,[6] it is likely that transactions will occur in that market at prices which would activate Exchange-resident stop orders and stop limit orders, were such transactions to occur in the Exchange's market. At such times, customers may look for an execution report based on trading that occurs through Nasdaq. In these circumstances, Exchange specialists may be placed at significant market risk if a customer is permitted to determine after the fact that a stop order or stop limit order in a sole listed issue was, or was not, due based on a sale reported in the Nasdaq market.

The Exchange proposes to adopt this new interpretation to remove any ambiguity regarding the appropriate activation of stop orders and stop limit orders in sole listed issues by necessitating the inclusion of reported regular way round-lot Nasdaq sales in determining the activation of Exchange-resident stop orders and stop limit orders in sole listed issues. Under the proposed rule, a customer's stop or stop limit order for a BSE sole listed security will be triggered upon a round-lot sales transaction at or through the stop price that is executed either on the Exchange or through Nasdaq. Once triggered, a stop order to buy or sell will become a market order executable at the most advantageous price obtainable after the order is represented at the specialist's post. A customer's triggered stop order generally will be executed at the best available price, including the best Nasdaq price. The actual execution of the order will occur on the Exchange under all circumstances.[7] Exchange-resident stop limit orders will be triggered in a manner identical to stop orders (*i.e.*, the occurrence of a round-lot transaction at or through the stop price on the Exchange or through Nasdaq).[8] Once triggered, a stop limit order to buy or sell will become a marketable order executable at the limit price or better, if obtainable, after the order is represented at the specialist's post. Similar to the treatment of stop orders, Nasdaq prices will be utilized to determine the best available price.

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).[9] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[10] 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 interest.[11]

The Commission believes that the proposed rule change is appropriate in that it promotes further linkage between the regulated U.S. equities markets and ensures that a customer's stop or stop limit order will be triggered upon the sooner to occur of an appropriate execution on the Exchange or through Nasdaq. This additional linkage is consistent with the principals contained in Section 11A of the Exchange Act and reflects the Congressional intent of creating a national market system for securities.[12] The Commission also believes that the proposed rule change helps to assure the best execution of customer orders, and is consistent with the maintenance of fair and orderly markets by ensuring that a customer's stop or stop limit order will be triggered based upon transactions occurring on either the Exchange or Nasdaq.[13]

The Commission notes that the inclusion of the Nasdaq/NMS and Nasdaq Small Cap trades in determining when to activate stop and stop limit orders is likely to result in quicker executions of these orders on the BSE. The Commission also believes that by including Nasdaq/NMS and Nasdaq Small Cap transactions in the activation criteria of Exchange resident stop and stop limit orders in BSE solely listed issues, the proposed rule change clarifies any ambiguity under the Exchange's existing rules as to when these orders will become marketable. The Commission also notes that the Exchange has proposed adequate surveillance procedures to monitor the activation and execution of stop and stop limit orders based on Nasdaq/NMS and Nasdaq Small Cap transactions.

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 thereof in the **Federal Register.** Amendment No. 2 narrows the scope of the proposal by clarifying that stop and stop limit orders on the Exchange may be triggered only by transactions occurring in the Nasdaq/NMS and Nasdaq Small Cap markets, and not transactions occurring on the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 revised the text of the proposed Supplementary Material to Section 3 of Chapter 1 of the Exchange Rules to clarify that it only applies to the trading of issues listed solely on the Exchange and that the proposal also applies to stop limit orders. *See* letter from Karen A. Aluise, Assistant Vice President, BSE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC (September 15, 1997) ("Amendment No. 1").

[4] Exchange Act Release No. 39187 (Oct. 1, 1997), 65 FR 52601.

[5] Amendment No. 2 clarified that the Exchange uses the term "Nasdaq" to include Nasdaq/NMS or Nasdaq Small Cap markets, but not to include the OTC Bulletin Board. Accordingly, stop orders and stop limit orders for issues listed solely on the Exchange, but that are also traded through Nasdaq/NMS or the Nasdaq Small Cap market, may be triggered based on trades occurring through Nasdaq/NMS or the Nasdaq Small Cap market. *See* letter from Karen A. Aluise, Vice President, BSE, to Michael Walinskas, Senior Special Counsel, Division of Market Regulation, SEC (November 7, 1997) ("Amendment No. 2").

[6] As noted above, the Exchange uses the term "Nasdaq" to include both the Nasdaq/NMS and Nasdaq Small Cap markets. However, the term is not intended to include the OTC Bulletin Board. *See* Amendment No. 2.

[7] Telephone conversation between Karen Aluise, Vice President, BSE, and Christine Richardson, Attorney, SEC, March 13, 1998.

[8] In the case of stop limit orders, the Exchange permits the stop price and the limit price to be different. *Id.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] *See* Section 11A(a)(1), of the Exchange Act, 15 U.S.C. 78k–1. In addition to the goals set out in Section 11A, Congress also found that the linking of qualified securities markets through communication and data processing facilities will foster efficiency; enhance competition; increase the information available to brokers, dealers, and investors; facilitate the offsetting of investors' orders and contribute to best execution of such orders. *See* Market 2000: An Examination of Current Equity Market Developments, Division of Market Regulation, Commission, January 1994, III–4 ("Market 2000 Study").

[13] *See* Market 2000 Study, *supra* note 10, at V–2.

OTC Bulletin Board. The Commission also notes that no comments were received on the original BSE proposal, which was subject to the full 21-day comment period. Therefore, the Commission believes that is consistent with Section 6(b)(5) of the Act to approve Amendment No. 2 to the proposed rule change on an accelerated basis.

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2 to the proposed rule change, including whether the amendment 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 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–BSE–97–04 and should be submitted by May 19, 1998.

For the foregoing reasons, the Commission finds that BSE's proposal, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–BSE–97–04) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11167 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39891; File No. SR–CBOE–97–40]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 to the Proposed Rule Change Relating to the "Terms and Conditions of an Order" for Purposes of the Exchange's Rules on Solicited Trades and Crossed Trades

April 21, 1998.

I. Introduction

On August 25, 1997, the Chicago Board Options Exchange, Inc. ("CBOE" 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 define the phrase "Terms and Conditions of an Order" for purposes of the Exchange's rules on solicited trades and crossed trades. On March 23, 1998, the Exchange filed Amendment No. 2 to the proposed rule change with the Commission.[3]

The proposed rule change, and Amendment No. 1 thereto were published for comment in the **Federal Register** on November 17, 1997.[4] No comments were received on the proposal. This order approves the proposal as amended.

II. Description of the Proposal

The purpose of the proposed rule change is to define and clarify the meaning of the phrase "terms and conditions" of an order as used in Exchange Rules 6.9 and 6.74. Pursuant to Rule 6.9, *Solicited Transactions,* a member or member organization representing an order respecting an option traded on the Exchange (an "original order"), including a spread, combination, or straddle order as defined in Rule 6.53 and a stock-option order as defined in Rule 1.1(ii), may solicit a member or member organization or a non-member customer or broker-dealer (the "solicited person") to transact in-person or by order (a "solicited order") with the original order.

Pursuant to Rule 6.74(b), a floor broker may effect a cross of a customer order and a facilitation order subject to satisfaction of certain conditions, including disclosure on an order ticket for the public customer order which is subject to facilitation, all of the terms of such order, including any contingency involving, and all related transactions in, either options of underlying or related securities. A facilitation order is defined in Rule 6.53(m) as an order which is only to be executed in whole or in part in a cross transaction with an order for a public customer of the member organization and which is clearly designated as a facilitation order.

The rules relating to both facilitation "solicited" and "crossing" transactions are designed to ensure that all market participants have an equal opportunity to participate in trades, fostering the objective of open outcry in a competitive market. The proposed rule amendment defines what is meant by the phrase "terms and conditions" as used in these two rules: the class; the series; the volume; the price; and contingencies; and any components related to the order. Components are related stock, options, futures or any other instruments or interests. A contingency order is a limit or market order to buy or sell that is contingent upon a condition being satisfied while the order is at the post. Contingent orders include: market-if-touched orders; market-on-close-orders; stop (stop-loss) orders; and stop-limit orders.

The Exchange believes that the proposed Interpretations will enable those who solicit and those who wish to effect "facilitation" crosses to understand and abide by their disclosure obligations. In addition, the proposed change will aid in achieving uniformity with regard to trading crowd expectations, as well as to the type and amount of information disclosed on crossed and solicited orders.

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).[5] Specifically, the Commission believes

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Stephanie C. Mullins, Attorney, CBOE to David Sieradzki, Attorney, SEC dated March 23, 1998 ("Amendment No. 2"). In Amendment No. 2, the Exchange adds option class and series to the definition of "Terms and Conditions of an Order." In addition, the Exchange adds language to the rule that indicates that the class of the option would be deemed disclosed if it is apparent that the crowd is aware of which option class is being traded.

[4] Securities Exchange Act Release No. 39308 (Nov. 6, 1997), 62 FR 61419 (Nov. 17, 1997).

[5] 15 U.S.C. 78f(b).

the proposal is consistent with the Section 6(b)(5)[6] 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 interest.[7]

The Exchange represents that the proposal will enable those who solicit and those who wish to effect "facilitation" crosses to understand and abide by their disclosure obligations. In addition, the Exchange represents that the proposed change will aid in achieving uniformity with regard to trading crowd expectations, as well as to the type and amount of information disclosed on crossed and solicited orders. The Commission supports the Exchange's efforts to review and clarify its rules relating to disclosure obligations of market participants. This is particularly true where, as here, the rule being clarified addresses priority accorded to orders on the floor of the Exchange. The Commission believes that the proposed rule change will help specify what information must be disclosed on crossed and solicited orders.

In November, 1994, when the Exchange adopted Rule 6.9, Solicited Transactions, the Exchange recognized the importance of fully disclosing the orders that comprise a solicited transaction to the trading crowd. The Exchange stated that if orders comprising a solicited transaction were not suitably exposed to the trading crowd "the execution of such orders would be inconsistent with the open auction market principles governing the execution of orders on the CBOE's floor."[8] By clarifying disclosure requirements with respect to solicited transactions, the current proposal should improve the ability of the Exchange to ensure that customer orders receive full consideration by the trading crowd.

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 thereof in the **Federal Register.** Amendment No. 2 adds option class and series to the definition of "Terms and Conditions." The Exchange has represented that this merely codifies the practice on the options trading floor to disclose an option's class and series in effecting a "facilitation" cross or solicited transaction.[9] Further, 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 it is appropriate 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 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 provision 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 above-mentioned self-regulatory organization. All submissions should refer to File No. SR–CBOE–97–40 and should be submitted by May 19, 1998.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–CBOE–97–40) is approved as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11165 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

[6] 15 U.S.C. 78f(b)(5).

[7] In approving this rule, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[8] Securities Exchange Act Release No. 34959 (November 9, 1994), 59 FR 59446 (November 17, 1994).

[9] Telephone conversation between Stephanie C. Mullins, Attorney, CBOE and David Sieradzki, Attorney, SEC on February 18, 1998.

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39894; File No. SR–DTC–97–23]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Modifying Issue Eligibility Requirements

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on January 5, 1998, The Depository Trust Company ("DTC") 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 primarily by DTC. 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 proposed rule change modifies DTC's existing operational arrangements necessary for a securities issue to become eligible for the services of DTC.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), 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

DTC's operational arrangements[3] currently incorporate the guidelines for income, reorganization, and redemption payments ("principal and income payments") established by the Same Day Funds Payment Task Force of the U.S. Working Committee, Group of Thirty Clearance and Settlement Project

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified parts of these statements.

[3] See Securities Exchange Act Release Nos. 24818 (August 19, 1987), 52 FR 31833; 25948 (July 27, 1988), 53 FR 29294; 30625 (April 23, 1992), 57 FR 18534; and 35649 (April 26, 1995), 60 FR 21576.

("P&I Task force").[4] The purpose of the proposed rule change is to update DTC's issue eligibility requirements.[5]

DTC's operational arrangements include requirements that all payments to DTC of principal and income be made in same-day funds on payment date by 2:30 p.m. Eastern Time ("ET") and that CUSIP information be provided in automated form early enough to allow the funds received to be matched with the related issues. In order to help assure that these requirements are met, the operational arrangements have been modified to require issuers to remit funds for all principal and income payments to paying agents or intermediaries by 1:00 p.m. ET or by such earlier time as required by the paying agent to guarantee that DTC will receive payment in same-day funds by 2:30 p.m. ET on payable date.[6]

In addition, the current operational arrangements require the submission of individual letters of representations ("LORs") each time an issuer wants to distribute securities of a type for which DTC requires an LOR. DTC uses sixteen different LORs for various types of municipal and corporate securities and money market instruments. The modified arrangements introduce the use of a blanket LOR which an issuer only needs to submit to DTC once for all issues. A blanket LOR eliminates the need for the submission of individual LORs each time the issuer wishes to distribute certain securities.[7]

The proposed rule change replaces only three of the LORs with the blanket LORs: the book entry only municipal bond LOR, the book entry only municipal note LOR, and the book entry only municipal variable rate demand obligation LOR.[8] As issuers gain experience with the use of blanket LORs, DTC will eliminate additional individual LORs.

DTC believes that the proposed rule change is consistent with Section 17A(b)(3)(F)[9] in that it should maximize the number of issues that can be made depository eligible while ensuring orderly processing and timely payments to participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition 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 subject principal and income guidelines incorporated in the proposed operational arrangements have been endorsed by the Corporate Trust Advisory Board of the American Bankers Association, the Bank Depository User Group, the Corporate Trust Advisory Committee of the Corporate Fiduciaries Association of New York City, the New York Clearing House Securities Committee, The Bond Market Association, and the Securities Industry Association.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change constitutes an interpretation with respect to the meaning, administration, or enforcement of an existing rule of DTC, it has become effective pursuant to Section 19(b)(3)(A)(i) of the Act[10] and Rule 19b–4(e)(1) thereunder.[11] At any time within sixty days of the filing of the 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 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 the DTC. All submissions should refer to the File No. SR–DTC–97–23 and should be submitted by May 19, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11168 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

[4] The U.S. Working Committee of the Group of Thirty is an organization consisting of representatives from broker-dealers, banks, and financial intermediaries charged with analyzing the existing clearance and settlement systems in the U.S.

[5] DTC included the text of its updated operational arrangements as an exhibit to its proposed rule change which is available for inspection and copying at the Commission's public reference room and through DTC.

[6] If an issuer or agent continually fails to make payments and provide the related payment detail in a timely manner, DTC may decide not to allocate such payments to participants on the payable date.

[7] DTC undertakes to make available to issuers that execute blanket LORs any future modifications in the operational arrangements. Upon review, issuers will have the opportunity to withdraw their blanket LORs.

[8] These LORs were chosen to be replaced first because these securities types account for the highest volume of repeat requests for DTC eligibility from issuers.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 15 U.S.C. 78s(b)(3)(A)(i).

[11] 17 CFR 240.19b–4(e)(1).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39904; File No. SR–MSRB–97–14]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G–32, on Disclosures in Connection With New Issues

April 22, 1998.

On March 12, 1998,[1] the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–97–14), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

[1] The Board initially filed this proposal on December 22, 1997. However, a substantive amendment was requested to restore rule language that had been deleted. The Board filed Amendment No. 1 on March 12, 1998. Pursuant to section 19(b), Amendment No. 1 is subject to notice and comment; thus, the proposed rule change is deemed filed as of the date of the amendment. 15 U.S.C. 78s.

On April 22, 1998, the Board filed Amendment No. 2 clarifying the underwriter's obligation if it prepares the official statement on behalf of issuers. *See* letter from Ernesto A. Lanza, Assistant General Counsel, MSRB, to Katherine A. England, Esq., Assistant Director, Division of Market Regulation, SEC, dated April 22, 1998.

("Act"),[2] and Rule 19b–4 thereunder.[3] The proposed rule change and Amendment Nos. 1 and 2 (collectively referred to herein as the "proposed rule change") are described in Items, I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board has filed with the Commission a proposed rule change consisting of amendments of Rule G–32, on disclosures in connection with new issues. The proposed rule change will strengthen the provisions of the rule relating to dissemination of official statements among dealers and incorporate a long-standing Board interpretation relating to disclosures required to be made to customers in connection with negotiated sales of new issue municipal securities. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

Rule G–32. Disclosures in Connection with New Issues

(a) Disclosure Requirements. No broker, dealer or municipal securities dealer shall sell, whether as principal or agent, any new issue municipal securities to a customer unless such broker, dealer or municipal securities dealer delivers to the customer no later than the settlement of the transaction:

(i) No change.

(ii) in connection with a negotiated sale of new issue municipal securities, the following information concerning the underwriting arrangements:

(A)–(B) No change.

(C) the initial offering price for each maturity in the issue that is offered or to be offered in whole or in part by the underwriters, *including maturities that are not reoffered.*

In the event an official statement in final form will not be prepared by or on behalf of the issuer, an official statement in preliminary form, if any, shall be sent to the customer with a notice that no final official statement is being prepared.

Every broker, dealer or municipal securities dealer shall *send, upon request,* [promptly furnish] the documents and information referred to in this section (a) to any broker, dealer or municipal securities dealer to which it sells new issue municipal securities [, upon the request of such broker, dealer or municipal securities dealer.] *no later than the business day following the request or, if an official statement in final form is being prepared but has not been received from the issuer or its agent, no later than the business day following such receipt. Such items shall be sent by first class mail or other equally prompt means, unless the purchasing broker, dealer or municipal securities dealer arranges some other method of delivery and pays or agrees to pay for such delivery.*

(b) Responsibility of Managing Underwriters, and Sole Underwriters and Financial Advisors. (i) Managing Underwriters and Sole Underwriters. When *an* [a final] official statement *in final form* is prepared by or on behalf of an issuer, the managing underwriter or sole underwriter, upon request, shall *send to* [provided] all brokers, dealers and municipal securities dealers that purchase the new issue *municipal* securities [with] an official statement *in final form* and other information required by paragraph (a)(ii) of this rule and not less than one additional official statement in final form per $100,000 par value of the new issue purchased by the broker, dealer or municipal securities dealer and sold to customers. *Such items shall be sent no later than the business day following the request or, if an official statement in final form is being prepared but has not been received from the issuer or its agent, no later than the business day following such receipt. Such items shall be sent by first class mail or other equally prompt means, unless the purchasing broker, dealer or municipal securities dealer arranges some other method of delivery and pays or agrees to pay for such delivery. In addition, the managing underwriter or sole underwriter, upon request,* [and] shall provide all purchasing brokers, dealers and municipal securities dealers with instructions *on* how to order additional copies of the [final] official statement *in final form* directly from the printer. [A managing underwriter or sole underwriter that prepares an official statement on behalf of an issuer shall print the final official statement and other information required by paragraph (a)(ii) of this rule and make them available promptly after the date of sale of the issue but no later than two business days before the date all securities are delivered by the syndicate manager to the syndicate members.]

(ii) Financial Advisors. A broker, dealer or municipal securities dealer that, acting as financial advisor, prepares *an* [a final] official statement *in final form* on behalf of an issuer, shall make that official statement in final form available to the managing underwriter or sole underwriter promptly after the *issuer approves its distribution.* [award is made. If the financial advisor is responsible for printing the final official statement, it shall make adequate copies of the final official statement available to the managing underwriter or sole underwriter promptly after the award is made but no later than two business days before the date all securities are delivered by the syndicate manager to the syndicate members to permit their compliance with paragraph (b)(i) of this rule.]

(c) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule G–32, on disclosures in connection with new issues, provides that no broker, dealer or municipal securities dealer ("dealer") shall sell any new issue municipal securities to a customer unless such dealer delivers to the customer no later than the settlement of the transaction a copy of the official statement in final form, if one is being prepared. In connection with a negotiated sale of new issue municipal securities, dealers are also required to deliver to their customers, by no later than settlement with the customer, information regarding, among other things, the initial offering price for each maturity in the new issue (termed the "Offering Price Disclosure Provision"). Managing underwriters and other dealers that sell new issue municipal securities to purchasing dealers are required to furnish copies of the official statement to such purchasing dealers upon request, and dealers acting as financial advisors are also required to ensure that official statements are made available to the underwriters in a timely

[2] 15 U.S.C. 78s(b)(1).

[3] 17 CFR 240.19b–4.

manner (termed the "Dealer Dissemination Provisions"). The Board is proposing amendment to Rule G–32 to strengthen the Dealer Dissemination Provisions and to explicitly incorporate into the Offering Price Disclosure Provision a long-standing Board interpretation of such provision.

Amendments to Dealer Dissemination Provisions

All dealers selling new issue municipal securities to customers, not just dealers that participated in the underwriting of the new issue, are required to deliver official statements to their customers by no later than settlement of their transactions. As a result, the Dealer Dissemination Provisions were included in Rule G–32 to make official statements for new issues available to all dealers so that they may fulfill their customer delivery obligation under the rule. Dealers that are not part of the underwriting group have indicated from time to time that they have had some difficulty in obtaining official statements from the managing underwriter or other selling dealers on a timely basis. The Board, therefore, is proposing amendments to the Dealer Dissemination Provisions of Rule G–32 to provide a specific timeframe and method for delivery of official statements to purchasing dealers.

The proposed rule change would retain the existing responsibility of the managing underwriter under the rule to provide, upon request, one copy of the official statement to purchasing dealers, together with the disclosure information required for negotiated offerings, and one additional official statement per $100,000 par value purchased for resale to customers. The managing underwriter also would continue to be required to provide purchasing dealers, upon request, with instructions on how to order copies of the official statement from the printer.[4] The amendments would add a requirement that the official statement be sent by the managing underwriter to the purchasing dealer no later than the business day after the request or, if the official statement has not been received from the issuer or its agent, the business day after receipt. The managing underwriters would be required to send official statements by first class mail or other equally prompt means unless the purchasing dealer arranges some other method of delivery at its own expense. These obligations of the managing underwriter would continue to apply with respect to all purchasing dealers, even where the managing underwriter did not sell the securities to the purchasing dealer.

In addition, the proposed rule change would retain the existing requirement that every dealer selling a new issue municipal security to another dealer must furnish the official statement to such purchasing dealer upon request. The amendments would add a requirement that the selling dealer send the official statement to the purchasing dealer within the same timeframe and by the same means as would be required of the managing underwriter.

The Board believes that the proposed rule change will help dealers to comply with their obligation to deliver official statements to their customers by settlement and will more effectively ensure rapid dissemination of official statements to customers and to the marketplace generally than is occurring in many instances under the current version of the rule. In particular, the Board believes that the provisions of the proposed rule change and of The Bond Market Association's Standard Agreement Among Underwriters would effectively obligate the managing underwriter to send the official statement to syndicate members within one business day of its receipt from the issuer.[5] Furthermore, although the proposed amendment removes specific references in the existing rule to underwriters that prepare official statements on behalf of issuers, the Board is of the view that an underwriter that prepares an official statement on behalf of an issuer would be deemed to have received the official statement from the issuer immediately upon such issuer approving the distribution of the completed official statement in final form.[6]

The proposed rule change would retain the existing requirement under Rule G–32 that a dealer acting as financial advisor that prepares an official statement on behalf of an issuer must make that official statement available to the managing or sole underwriter, but would change the timing for such availability from promptly after the award is made, as provided in the current rule, to promptly after the issuer approves distribution of the official statement in final form. However, as the Board cannot prescribe the content, timing, quantity or manner of production of the official statement by the issuer or its agents, the portions of the existing rule that would regulate such production on behalf of an issuer by a dealer acting as financial advisor would be deleted. The Board is proposing this amendment to ensure that, once the official statement is completed and approved by the issuer for distribution, dealers acting as financial advisors will be obligated to commence the dissemination process promptly.[7] The Board urges issuers that utilize the services of non-dealer financial advisors to hold such financial advisor to the same standards for prompt delivery of official statements to the underwriters.

Amendment to Offering Price Disclosure Provision

Since January 1983,[8] the Board has interpreted the Offering Price Disclosure Provision to require that the initial offering price of all maturities of a new issue of municipal securities in a negotiated offering must be disclosed to customers, even for maturities that are not reoffered. The proposed amendment to the Offering Price Disclosure Provision of Rule G–32 would incorporate into the rule language this

[4] Consistent with the position taken by the Commission in connection with its Rule 15c2–12, the Board recognizes that the official statement is the issuer's document. As a result, the proposed rule change would remove references in the existing rule to the preparation of official statements by underwriters.

[5] The Bond Market Association's Standard Agreement Among Underwriters provides that syndicate members must place orders for the official statement by the business day following the date of execution of the purchase contract and states that any syndicate member that fails to place such an order will be assumed to have requested the quantity required under Rule G–32(b)(i). *See* Agreement Among Underwriters, Instructions, Terms and Acceptance, The Bond Market Association, (Oct. 1, 1997) at ¶ 3. Thus, except in the rare instances where an official statement in final form is completed and available for distribution on the date of sale, syndicate members will have made or have been deemed to have made their requests for official statements by the time the managing underwriter receives the official statement from the issuer, thereby obligating the managing underwriter under the proposed rule change to send the official statement to syndicate members within one business day of receipt.

[6] *See supra* note 1, Amendment No. 2.

[7] Of course, this amendment would not relieve dealers acting as financial advisors of their obligations to comply with their contractual arrangements entered into with issuers and with all applicable state and federal statutes, regulations and common law. Thus, in particular, in instances where a dealer, acting as financial advisor, has a contractual or other legal duty to assist an issuer in complying with its contractual obligation to deliver final official statements within the timeframe and in the quantities set forth in Rule 15c2–12(b)(3) under the Act, such obligation would not be diminished by operation of the revised amendment.

[8] *See MSRB Reports*, Vol. 3, No. 1 (Jan. 1983), "Rule G–32 + Frequently Asked Questions Concerning Disclosures in Connection with New Issues," at 25–27. *See also* MSRB Reports, Vol. 6, No. 4 (Sept. 1986), "Disclosure Requirements for New Issue Securities: Rule G–32," at 17–20 and MSRB Reports, Vol. 16, No. 3 (Sept. 1996), "Disclosures in Connection with New Issues: Rule G–32," at 19–23.

long-standing Board interpretation. The Board believes that the application of the Offering Price Disclosure Provision to maturities that are not reoffered permits customers to determine whether the price they paid for a new issue municipal security is substantially different from the price being paid by presale purchasers.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[9] The Board believes that the proposed rule change would help dealers to comply with their obligation to deliver official statements to their customers by settlement, would improve dissemination of official statements to the marketplace generally during the underwriting period, and would ensure the continued availability of important pricing information to new issue customers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

In September 1996, the Board published a notice (the "Notice") in which the Board proposed certain amendments to Rule G–32 that, among other things, would have strengthened the rule's Dealer Dissemination Provisions and incorporated into the Offering Price Disclosure Provision the Board's interpretation regarding disclosure in a negotiated offering of the initial offering prices of maturities that are not reoffered.[10]

In response to its request for comments, the Board received three comment letters,[11] each of which addressed the proposed amendments to the Dealer Dissemination Provisions and one of which also addressed the proposed amendment to the Offering Price Disclosure Provision.

One commentator supports the proposed amendments to the Dealer Dissemination Provisions of Rule G–32[12] This dealer noted that it was already responding to requests from purchasing dealers for official statements within one business day so that the proposed amendments would not pose any operational problems for it. In addition, the dealer stated that placing such an obligation on all dealers would make it possible for dealers to deliver official statements to their customers in a more timely manner.

Two commentators did not object to any of the changes in the proposed amendments, but criticized certain of the existing provisions of the Dealer Dissemination Provisions. One dealer objected to the open-ended requirement that managing underwriters provide purchasing dealers with official statements and proposed that purchasing dealers be required to obtain the official statement from a nationally recognized municipal securities information repository ("NRMSIR") if the managing underwriter has exhausted its supply of official statements.[13] Another dealer noted that the requirement to provide an official statement to purchasing dealers is limited to one per $100,000 par value of securities sold to customers and that this limitation puts a heavier burden on regional, retail-oriented firms that are compelled to photocopy additional copies.[14]

The Board recognizes that there may not be sufficient quantities of the original printed official statement for every new issue to comply with dealers' obligations under Board rules. It believes, however, that requiring selling dealers to provide a copy of the official statement to purchasing dealers, upon request, and requiring managing underwriters to provide to purchasing dealers, upon request, one official statement plus one additional official statement per $100,000 par value purchased for resale to customers serves as a reasonable floor on the number of official statements that are available in the marketplace to meet the requirements of Board rules.[15] If a managing underwriter does not have sufficient printed copies of the official statement to meet its obligations with respect to any particular new issue, it may need to photocopy or otherwise obtain additional copies of the official statement. In addition, if a dealer selling municipal securities to customers is unable to obtain sufficient numbers of official statements from the managing underwriter or from the dealer that sold the securities to it, then this dealer may need to photocopy or otherwise obtain additional copies of the official statement. Such other sources of official statements include, but are not limited to, the Board's Municipal Securities Information Library℠ (MSIL℠) system,[16] the NRMSIRs, or other information vendors.

One commentators supports the proposed amendment to the Offering Price Disclosure Requirement.[17]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

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[9] Section 15B(b)(2)(C) states that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[10] *See* MSRB Reports, Vol. 16, No. 3 (Sept. 1996), "Disclosures in Connection with New Issues: Rule G–32," at 19–23.

The proposed amendments described in the Notice included, in addition to the proposed amendments to the Dealer Dissemination Provisions (other than the proposed amendment to require dealers acting as financial advisors to make the official statement available promptly after the issuer approves its distribution) and the Offering Price Disclosure Provision, a requirement that official statements for primary offerings of municipal securities subject to Rule 15c2–12 under the Act be sent to customers no later than the date that final money confirmations are sent (the "Customer Delivery Proposal"). In conjunction with this proposed change to the official statement delivery requirement, the Board proposed reorganizing Rule G–32 to address separately those offerings that are subject to Rule 15c2–12 and those that are not. The Board subsequently withdrew the proposed amendments and is not, at this time, filing with the Commission the Customer Delivery Proposal. Furthermore, because the Customer Delivery Proposal is not being filed, the Board also is not proposing to reorganize the rule as described in the Notice.

[11] Chase Securities of Texas, Inc. ("Chase"), J.C. Bradford & Co., and Paine Webber Incorporated.

[12] Chase.

[13] PaineWebber Incorporated.

[14] J.C. Bradford & Co.

[15] In addition, Rule G–32 will continue to require that managing underwriters provide all purchasing dealers with instructions on how to order additional copies of the final official statement directly from the printer.

[16] Municipal Securities Information Library and MSIL are registered trademarks of the Board.

[17] Chase

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 between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–97–14 and should be submitted by May 19, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[18]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11208 Filed 4–27–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39900; File No. SR–MSRB–98–4]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Rule G–32, on Disclosures in Connection With New Issues

April 22, 1998.

On March 25, 1998, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (File No. SR–MSRB–98–4) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder.[2] The proposed rule change is described in Items, I, II, and III below, which Items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Board has filed with the Commission a proposed rule change consisting of amendments to Rule G–32, on disclosures in connection with new issues. The proposed rule change will provide an alternate method of compliance by brokers, dealers and municipal securities dealers with their obligation to deliver official statements in final form to customers by settlement for certain new issues of variable rate demand obligations. Below is the text of the proposed rule change. Additions are italicized; deletions are in brackets.

Rule G–32. Disclosures in Connection With New Issues

(a) Disclosure Requirements. No broker, dealer or municipal securities dealer shall sell, whether as principal or agent, any new issue municipal securities to a customer unless such broker, dealer or municipal securities dealer delivers to the customer no later than the settlement of the transaction:

(i) a copy of the official statement in final form prepared by or on behalf of the issuer or, if *an* [a final] official statement *in final form* is not being prepared by or on behalf of the issuer, a written notice to that effect *together with a copy of an official statement in preliminary form, if any; provided, however, that if an official statement in final form is being prepared for new issue municipal securities issued in a primary offering that qualifies for the exemption set forth in paragraph (iii) of section (d)(1) of Securities Exchange Act Rule 15c2–12, a broker, dealer or municipal securities dealer may sell such new issue municipal securities to a customer if such broker, dealer or municipal securities dealer:*

(A) delivers to the customer no later than the settlement of the transaction a copy of an official statement in preliminary form, if any, and written notice that the official statement in final form will be sent to the customer within one business day following receipt thereof by the broker, dealer or municipal securities dealer, and

(B) sends to the customer a copy of the official statement in final form, by first class mail or other equally prompt means, no later than the business day following receipt thereof by the broker, dealer or municipal securities dealer; and

(ii) No change.

[In the event an official statement in final form will not be prepared by or on behalf of the issuer, an official statement in preliminary form, if any, shall be sent to the customer with a notice that no final official statement is being prepared.]

Every broker, dealer or municipal securities dealer shall promptly furnish the documents and information referred to in this section (a) to any broker, dealer or municipal securities dealer to which it sells new issue municipal securities, upon the request of such broker, dealer or municipal securities dealer.

(b) No change.

(c) Definitions [of New Issue Municipal Securities and Official Statement].

For purposes of this rule, the following terms have the following meanings:

(i)–(iii) No change.

(iv) The term "primary offering" shall mean an offering defined in Securities Exchange Act Rule 15c2–12(f)(7).

* * * * *

II. Self-Regulatory Organization's Statement of The Purpose of, and Statutory Basis for, The Proposed Rule Change

In its filing with the Commission, the Board included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Board is proposing an amendment to Rule G–32, on disclosures in connection with new issues, that would permit brokers, dealers and municipal securities dealers ("dealers"), selling variable rate demand obligations to customers during the underwriting period, to deliver a preliminary official statement by no later than settlement and to send the official statement in final form within one business day of receipt from the issuer, provided these variable rate demand obligations qualify for the exemption provided under subparagraph (d)(1)(iii) of Rule 15c2–12 under the Act ("Rule 15c2–12").

Background. Rule G–32 provides that no dealer shall sell any new issue municipal securities to a customer unless that dealer delivers to the

customer, no later than the settlement of the transaction, a copy of the official statement in final form or, if an official statement in final form is not being prepared, a written notice to the effect together with an official statement in preliminary form, if any.[3] The rule is designed to ensure that a customer who purchases a new issue municipal securities is provided with all available information relevant to his or her investment decision by settlement of the transaction.

The structure of Rule G–32, as currently in effect, is premised on the standard industry practice of issuers delivering the securities to the underwriters two or more weeks after the sale date for the securities (hereinafter referred to as the "Bond Delivery Period").[4] The rule was originally adopted by the Board in 1977[5] and was amended substantially to its current form in 1985.[6] In 1989, the Commission promulgated Rule 15c2–12,[7] which requires underwriters in primary offerings subject to the rule, among other things, to contract with issuer to receive final official statements within seven business days after any final agreement to purchase, offer or sell municipal securities and to receive these statements in sufficient time to accompany any confirmation that request payment from any customer. At the time Rule 15c2–12 was drafted, the industry's standard Bond Delivery Period was two or more weeks.[8] Presumably, Rule G–32's official statement delivery obligation was premised, at least in part, on this timing requirement.

The Board has previously sought to make Rule G–32 consistent with the provisions of Rule 15c2–12. In 1996, the Board published a notice requesting comments on a draft amendment to Rule G–32 that, among other things, would have expedited the time that customers are provided with a final official statement for primary offerings subject to Rule 15c2–12 to the date of delivery of final money confirmations, as opposed to settlement, as is currently required.[9] The draft amendment was based on the requirement under Rule 15c2–12 that underwriters contract with issuers to receive final official statements in sufficient time to accompany any confirmation that requests payment from any customer. However, the Board decided not to proceed with the draft amendment primarily due to commentators' complaints that frequent delays in obtaining the final official statement from the issuer would often make compliance with the accelerated timeframe impossible or unduly expensive and burdensome.[10]

In the interim, the Board had launched a review of the underwriting process which focused on, among other things, the manner and timeliness of delivery of official statements from issuers to underwriters under Rule 15c2–12 and from underwriters to the Board under Rule G–36.[11] The Board found that, in some instances, issuers do not meet their contractual obligation entered into with underwriters pursuant to Rule 15c2–12 to deliver official statements within seven business days after the date of final agreement to purchase, offer or sell the municipal securities. The Board noted that, if issuers are not meeting the current delivery requirement under Rule 15c2–12, it is possible that final official statements also are not being prepared in time to deliver to customers by settlement as required under Rule G–32. Thus, to assist the agencies charged with enforcing Rules G–32 and G–36 and to provide additional information to the Board in considering the effectiveness of such rules, the Board proposed certain revisions to Forms G–36(OS) and G–36(ARD) that would require that underwriters indicate, among other things, the date that final official statements are received from the issuer and the expected date of closing on the underwriting. The revised forms went into effect on January 1, 1998 and are currently being used by underwriting. The revised forms went into effect on January 1, 1998 and are currently being used by underwriters.[12] The Board expects that information obtained through the revised forms, as well as, through dialogue with industry participants, will assist it in assessing the effectiveness of Rule G–32 in the municipal marketplace as it has evolved since 1985 and particularly since promulgation of Rule 15c2–12.

Proposed Amendment. In promulgating Rule 15c2–12 and in response to concerns raised by commentators that applying the provisions of the rule to variable rate demand obligations "might unnecessarily hinder the operation of this market,"[13] the Commission provided an exemption to the rule for any such obligations that can be tendered by the holders thereof for purchase by the issuer or its agent at least as frequently as every nine months and that are in authorized denomination of $100,000 or more ("Exempt VRDOs"). The decision by the Commission to exclude Exempt VRDOs from the operation of Rule 15c2–12 was consistent with the fundamental structural differences between such securities and most of the traditional market for municipal securities. In most variable rate demand obligation issues, particularly those that fall within the Exempt VRDO category, the purchase contract is not executed until the issue closing date or the immediately preceding day.[14] Thus, in the vast majority of such issues, the Bond Delivery Period—the period between the purchase date and the closing date—is at most only one business day. As issuers typically do not authorize the printing of the official statement in final form until the execution of the purchase contract, underwriters usually do not receive the official statement in final form until the closing date at the earliest and, in many instances, the printed version is not available until after the closing date, at which point the issuer has already delivered the Exempt VRDOs to the underwriters.

[3] The rule applies to all municipal securities (other than commercial paper) that are sold by a dealer during the issue's underwriting period, as such term is defined under Board rules.

[4] The Bond Market Association states that "[i]t usually takes about one month from the sale date for the bonds to be actually ready to be delivered to investors." Public Securities Association, Fundamentals of Municipal Bonds, Fourth Edition (1990).

[5] *See* Securities Exchange Act Release No. 15247 (October 19, 1978), 43 FR 50526 (October 30, 1978) (File No. SR–MSRB–77–12). The Commission approved several Board rules in this release, including G–32.

[6] The Commission approved this amendment is Securities Exchange Act Release No. 22374 (August 30, 1985), 50 FR 36505 (September 6, 1985) (File No. SR–MSRB–85–11). Subsequent amendments have been limited to providing a definition of "underwriting period" and clarifying the exemption for commercial paper. In addition, the Board has filed with the Commission a proposed amendment that relates primarily to dealer-to-dealer dissemination of official statements. See File No. SR–MSRB–97–14 (December 22, 1997, amended March 12, 1998).

[7] Securities Exchange Act Release No. 26985 (June 28, 1989), 54 FR 28799 (July 10, 1989).

[8] For example, the seven business day time frame of paragraph (b)(3) of Rule 15c2–12 presumably anticipated a typical Bond Delivery Period of at least one and one-half weeks since the final official statement is generally expected to be available at least by closing of the underwriting transaction.

[9] See MSRB Reports, Vol. 16, No. 3 (Sept. 1996) at 19–23.

[10] *See* MSRB Reports, Vol. 17, No. 2 (June 1997) at 23–24.

[11] *See* MSRB Reports, Vol. 17, No. 2 (June 1997) at 3–16.

[12] *See* Securities Exchange Act Release No. 39545 (January 13, 1998), 63 FR 3368 (January 22, 1998) (File No. SR–MSRB–97–10).

[13] *See* Securities Exchange Act Release No. 26985 (June 28, 1989), 54 FR 28799 (July 10, 1989).

[14] This compressed time frame arises as a result of the fact that, as securities bearing short-term yields sold at par, the market dictates that pricing—*i.e.*, the setting of the interest rate borne by the securities during the initial rate period—and settlement occur on a same-day or next-day basis.

The Board has determined that, because the Bond Delivery Period for Exempt VRDOs is at most one business day, it is often not possible for dealers to settle with customers—who expect to receive delivery of their securities on the issue date—without causing a violation of the requirement that they deliver the official statement in final form to such customers by settlement. As a result, the Board is proposing an amendment to Rule G–32 that would permit a dealer, selling new issue Exempt VRDOs, to deliver the official statement in preliminary form to the customer by settlement, together with a written notice that the official statement in final form will be sent to the customer within one business day of receipt. Thereafter, once the dealer receives the official statement in final form, it must send a copy to the customer within one business day of receipt. If no official statement in preliminary form is being prepared, the dealer would only be obligated to deliver by settlement the written notice regarding the official statement in final form and to send the official statement in final form upon receipt.[15] The proposed amendment offers an alternative method of compliance with Rule G–32 in the case of Exempt VRDOs. Thus, in those limited circumstances where dealers may in fact receive the official statement in final form in sufficient time to deliver it to customers by settlement (*e.g.*, if an issuer approves completion of the official statement in final form prior to execution of the purchase contract), dealers would have the option of complying with the existing provision of the rule by delivering the official statement in final form to the customer by settlement.

2. Statutory Basis

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C) of the Act.[16] The Board believes that the proposed rule change will ensure that the primary market in municipal securities continues to experience adequate levels of disclosure without disruption to the market for variable rate demand obligations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designated 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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the 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 between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–98–4 and should be submitted by May 19, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11209 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

[15] As in the current rule, if no official statement in final form is being prepared, such dealer would deliver to the customer by settlement the official statement in preliminary form, if any, and written notice to the effect that an official statement in final form is not being prepared. If neither a final nor a preliminary official statement is being prepared, the dealer would only be obligated to deliver by settlement the written notice to the effect that no official statement in final form is being prepared.

[16] Section 15B(b)(2)(C) states that the Board's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39893; File No. SR–NASD–98–23]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating to an Amendment to the NASD's Options Position Limits Rule

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act"),[1] notice is hereby given that on March 10, 1998, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. 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

NASD Regulation is proposing to amend Rule 2860(b) of the of the National Association of Securities Dealers, Inc. ("NASD" or "Association") to: (1) increase the position limits on conventional equity options to three times the basic position limits for standardized equity options on the same security; (2) disaggregate conventional equity options from standardized equity options and FLEX Equity Options for position limit purposes; and (3) provide that the OTC Collar Aggregation Exemption shall be available with respect to an entire conventional equity options position, not just that portion of the position that is established pursuant to the NASD's Equity Option Hedge Exemption. Below is the text of the proposed rule change. Proposed new

[1] 15 U.S.C. 78s(b)(1).

language is in italics; proposed deletions are in brackets.[2]

Rule 2860. Options

* * * * *

(b) Requirements

(2) Definitions

The following terms shall, unless the context otherwise requires, have the stated meanings:

* * * * *

(VV) *Standardized Equity Option—The term "standardized equity option" means any equity options contract issued, or subject to issuance by, The Options Clearing Corporation that is not a FLEX Equity Option.*

(WW)—(AAA) Redesignated accordingly.

* * * * *

(3) Position Limits

(A) Stock Options—Except in highly unusual circumstances and with the prior written approval of the Association in each instance, no member shall effect for any account in which such member has an interest, or for the account of any partner, officer, director or employee thereof, or for the account of any customer, an opening transaction through Nasdaq, the over-the-counter market or on any exchange in a stock option contract of any class of stock options if the member has reason to believe that as a result of such transaction the member or partner, officer, director or employee thereof, or customer would, acting alone or in concert with others, directly or indirectly, hold or control or be obligated in respect of an aggregate *standardized equity options* position in excess of:

(i) 4,500 option contracts of the put class and the call class on the same side of the market covering the same underlying security, combining for purposes of this position limit long positions in put options with short positions in call options, and short positions in put options with long positions in call options; or

(ii) 7,500 options contracts of the put class and the call class on the same side of the market covering the same underlying security, providing that the 7,500 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 7,500 option contracts; or

(iii) 10,500 option contracts of the put class and the call class on the same side of the market covering the same underlying security providing that the 10,500 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 10,500 option contracts; or

(iv) 20,000 options contracts of the put and the call class on the same side of the market covering the same underlying security, providing that the 20,000 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 20,000 option contracts; or

(v) 25,000 options contracts of the put and the call class on the same side of the market covering the same underlying security, providing that the 25,000 contract position limit shall only be available for option contracts on securities which underlie or qualify to underlie Nasdaq or exchange-traded options qualifying under applicable rules for a position limit of 25,000 option contracts; or

(vi) such other number stock options contracts as may be fixed from time to time by the Association as the position limit for one or more classes or series of options provided that reasonable notice shall be given of each new position limit fixed by the Association.

(vii) Equity Option Hedge Exemption

a. The following positions, where each option contract is "hedged" by 100 shares of stock or securities readily convertible into or economically equivalent to such stock, or, in the case of an adjusted option contract, the same number of shares represented by the adjusted contract, shall be exempted from established limits contained in (i) through (vi) above:

1. long call and short stock;
2. short call and long stock;
3. long put and long stock.
4. short put and short stock

b. Except as provided [under] *in subparagraph (b)(3)(A)(ix) and in* the OTC Collar Exemption contained in *sub*paragraph (b)(3)(A)(viii), in no event may the maximum allowable position, inclusive of options contracts hedged pursuant to the equity option position limit hedge exemption in subparagraph a. above, exceed three times the applicable position limit established in *sub*paragraph (b)(3)(A)(i)–(v) *with respect to standardized equity options, or subparagraph (b)(3)(A)(ix) with respect to conventional equity options.*

c. The Equity Option Hedge Exemption is a pilot program authorized by the Commission through December 31, 1999.[3]

(viii) OTC With Aggregation Exemption

a. For purposes of this paragraph (b), the term OTC collar shall mean a conventional equity option position comprised of short (long) calls and long (short) puts overlying the same security that hedge a corresponding long (short) position in that security.

b. Notwithstanding the aggregation provisions for short (long) call positions and long (short) put positions contained in subparagraphs (i) through (v) above, the conventional options positions involved in a particular OTC collar transaction [established pursuant to the position limit hedge exemption in subparagraph (vii)] need not be aggregated for position limit purposes, provided the following conditions are satisfied:

1. the conventional options can only be exercised if they are in-the-money;

2. neither conventional option can be sold, assigned, or transferred by the holder without the prior written consent of the writer;

3. the conventional options must be European-style (*i.e.*, only exercisable upon expiration) and expire on the same date;

4. The strike price of the short call can never be less than the strike price of the long put; and

5. neither side of any particular OTC collar transaction can be in-the-money when that particular OTC collar is established.

6. the size of the conventional options in excess of the applicable basic position limit for the options established pursuant to subparagraph *(b)(3)(A)(ix)* [(A)(i)–(v) above] must be hedged on a one-to-one basis with the requisite long or short stock position for the duration of the collar, although the same long or short stock position can be used to hedge both legs of the collar.

[2] The proposed new language assumes that the proposed rule changes filed with the Commission in SR–NASD–98–15, on February 13, 1998, and SR–NASD–98–02, on January 20, 1998, have been approved. The Commission notes that SR–NASD–98–15 was approved on March 19, 1998, and SR–NASD–98–02 was approved on April 14, 1998. *See* Exchange Act Release Nos. 39771 (March 19, 1998), 63 FR 14743 (March 26, 1998) (SR–NASD–98–15); 39865 (April 14, 1998) (SR–NASD–98–02).

[3] The Commission notes that the NASD filed a proposed rule change requesting that the Equity Option Hedge Exemption pilot program be extended until December 31, 1999. An amendment was later filed, reducing the extension until December 31, 1998. The Commission approved the proposed rule change, as amended. *See* Exchange Act Release No. 39865 (April 14, 1998) (SR–NASD–98–02). The NASD will be submitting an amendment to this filing (SR–NASD–98–23), clarifying in the proposed rule language that the Equity Option Hedge Exemption pilot program has been extended only until December 31, 1998.

c. For multiple OTC collars on the same security meeting the conditions set forth in subparagraph b. above, all of the short (long) call options that are part of such collars must be aggregated and all of the long (short) put options that are part of such collars must be aggregated, but the short (long) calls need not be aggregated with the long (short) puts.

d. Except as provided above in subparagraphs b. and c., in no event may a member fail to aggregate any conventional [or standardized] options contract of the put class and the call class overlying the same equity security on the same side on the market with conventional option positions established in connection with an OTC collar.

e. Nothing in this subparagraph (viii) changes the applicable position limit for a particular equity security.

(ix) For purposes of this paragraph (b), standardized equity options contracts of the put class and call class on the same side of the market overlying the same security shall not be aggregated with conventional equity options contracts or FLEX Equity Options contracts overlying the same security on the same side of the market. Conventional equity options contracts of the put class and call class on the same side of the market overlying the same security shall be subject to a basic position limit equal to three times the applicable position limit established for standardized equity options overlying the security pursuant to subparagraphs A(i)–(v) above and are eligible for the OTC Collar Exemption set forth in subparagraph A(viii) above and the Equity Option Hedge Exemption set forth in subparagraph A(vii) above.

(Footnotes omitted. No changes).

* * * * *

IM–2860–1. Position Limits

The following examples illustrate the operation of position limits established by Rule 2860(b)(3) (all examples assume a position limit of 4,500 contracts *and that the options are standardized options*):

(a) Customer A, who is long 4,500 XYZ calls, may at the same time be short 4,500 XYZ calls, since long and short positions in the same class of options (*i.e.*, in calls only, or in puts only) are on opposite sides of the market and are not aggregated for purposes of paragraph (b)(3).

(b) Customer B, who is long 4,500 XYZ calls, may at the same time be long 4,500 XYZ puts. Paragraph (b)(3) does not require the aggregation of long call and long put (or short call and short put) positions, since they are on opposite sides of the market.

(c) Customer C, who is long 1,700 XYZ calls, may not at the same time be short more than 2,800 XYZ puts, since the 4,500 contract limit applies to the aggregation of long call and short put positions in options covering the same underlying security. Similarly, if Customer C is also short 1,600 XYZ calls, he may not at the same time be long more than 2,900 puts, since the 4,500 contract limit applies separately to the aggregation of short call and long put positions in options covering the same underlying security.

(d) Customer D, who is short *900,000* [450,000] shares of XYZ, may be long up to *13,500* [9,000] XYZ calls, since the "hedge" exemption contained in paragraph (b)(3)(A)(*vii*) permits Customer D to establish an options position up to *13,500* [9,000] contracts in size. In this instance, 4,500 of the *13,500* [9,000] contracts are permissible under the basic position limit contained in paragraph (b)(3)(A)(i) and the remaining *9,000* [4,500] contracts are permissible because they are hedged by the *900,000* [450,000] short stock position.

* * * * *

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 self-regulatory organization 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 self-regulatory organization 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

NASD Rule 2860(b)(3) provides that the position limit [4] for each equity option is determined according to a five-tiered system whereby more actively traded securities with larger public floats are subject to higher position limits and less actively traded stocks are subject to lower limits.[5] Presently, conventional and standardized equity options are subject to the same position limits, and all equity options overlying a particular equity security on the same side of the market are aggregated for position limit purposes, regardless of whether the option is a conventional, standardized or FLEX Equity Option.[6] On September 9, 1997, the Commission approved a two-year pilot program ("Pilot Program") to eliminate position and exercise limits for FLEX Equity Options, which are traded on the American Stock Exchange, Inc. ("AMES"), the Chicago Board Options Exchange, Inc. ("CBOE"), and the Pacific Exchange, Inc. ("PCX") (collectively "Options Exchanges").[7] In light of the Pilot Program, NASD Regulation is proposing to amend its rules governing position and exercise limits for conventional equity options. NASD Regulation previously has filed a proposed rule change to eliminate position and exercise limits on FLEX Equity Options to make its rules consistent with the Pilot Program.[8] NASD Regulation believes the proposed rule change herein is necessary to foster competition between the over-the-counter ("OTC") market and the Options Exchanges.

FLEX Equity Options are exchange-traded options issued by the Options Clearing Corporation ("OCC") that give investors the ability, within specified limits, to designate certain terms of the option (*i.e.*, the exercise price, exercise style, expiration date, and option type). Because they are non-uniform and individually negotiated, FLEX Equity Options closely resemble and are

[4] Position limits impose a ceiling on the number of option contracts in each class on the same side of the market (*i.e.*, aggregating long calls and short puts; or long puts and short calls) that can be held or written by an investor or group of investors acting in concert. Exercise limits restrict the number of options contracts that an investor or group of investors acting in concert can exercise within five consecutive business days. Under NASD Rules, exercise limits correspond to position limits, such that investors in options classes on the same side of the market are allowed to exercise, during any five consecutive business days, only the number of options contracts set forth as the applicable position limit for those options classes. *See* NASD Rules 2860(b)(3) and (4).

[5] Currently, the five tiers are for 4,500, 7,500, 10,500, 20,000 and 25,000 contracts. NASD rules do not specifically govern how a specific equity option falls within one of the five position limit tiers. Rather, the NASD's position limit rule provides that the position limit established by an options exchange(s) for a particular equity option is the applicable position limit for purposes of the NASD's rule.

[6] Standardized options are exchange-traded options issued by the Options Clearing Corporation ("OCC") that have standard terms with respect to strike prices, expiration dates, and the amount of the underlying security. A conventional option is any other option contract not issued, or subject to issuance by, OCC.

[7] *See* Exchange Act Release No. 39032 (September 9, 1997), 62 FR 48683 (September 16, 1997).

[8] *See* SR–NASD–98–15. The Commission notes that SR–NASD–98–15 was approved on March 19, 1998. *See* Exchange Act Release No. 39771 (March 19, 1998), 63 FR 14743 (March 26, 1998).

economically equivalent to conventional equity options. Accordingly, to more closely align the NASD's position limit rules for conventional equity options with the rules for FLEX Equity Options, NASD Regulation proposes to amend Rule 2860(b)(3) to provide that: (1) position limits on conventional equity options shall be increased to three times the basic position limits for standardized equity options on the same security; (2) conventional equity options shall be disaggregated from standardized equity options and FLEX Equity Options for position limit purposes; and (3) the OTC Collar Aggregation Exemption shall be available with respect to an entire conventional equity options position, not just that portion of the position that is established pursuant to the NASD's Equity Option Hedge Exemption.

The NASD's Equity Option Hedge Exemption [9] provides for an automatic exemption from equity option position limits for accounts that have established hedged positions on a limited one-for-one basis (*i.e.*, 100 shares of stock for one option contract). Under the Equity Option Hedge Exemption, the largest options position that may be established (combining hedged and unhedged positions) may not exceed three times the basic position limit. The OTC Collar Aggregation Exemption [10] provides that positions in conventional put and call options establishing OTC collars need not be aggregated for position limit purposes. An OTC collar transaction involves the purchase (sale) of a put and the sale (purchase) of a call on the same underlying security to hedge a long (short) stock position.

At the present time, NASD Regulation believes that the prudent regulatory approach is to increase position limits on conventional equity options in conjunction with continued availability of the Equity Option Hedge Exemption and OTC Collar Aggregation Exemption. NASD Regulation proposes an incremental approach and in this case believes that increasing position limits for conventional equity options to three times the position limits for standardized equity options is appropriate. These proposed limits correspond to the position limits in effect for FLEX Equity Options prior to the Pilot Program.

NASD Regulation also believes that conventional equity options positions should not be aggregated with standardized and FLEX Equity Options on the same securities for position limit purposes. Disaggregation of conventional and other options is necessary to give full effect to the proposed increase in position limits for conventional equity options. Without disaggregation, positions in FLEX Equity Option or standardized option positions would reduce or potentially even eliminate (in the case of FLEX Equity Options) the available position limits for conventional equity options.

To illustrate how these proposed amendments would work, consider the following example of stock ABCD, which is subject to a position limit of 25,000 standardized equity option contracts. In this example, a market participant could establish a position of 25,000 standardized option contracts on ABCD and an additional 75,000 conventional option contracts on ABCD on the same side of the market, since conventional and standardized option positions would be disaggregated. In addition, the market participant also may have a position of any size in FLEX Equity Options overlying ABCD, since such FLEX Equity Options would not be aggregated with either the conventional equity options or standardized equity options overlying ABCD. Further, by taking advantage of the Equity Option Hedge Exemption, which permits a market participant to assume a hedged options position that is three times the otherwise applicable position limit, a market participant could increase the number of conventional equity options to 225,000 contracts.

NASD Regulation proposes to modify the terms of the OTC Collar Aggregation Exemption to apply to an entire conventional equity option position, not just the portion that is established pursuant to the Equity Option Hedge Exemption. NASD Regulation believes such an amendment is consistent with the economic logic underlying the OTC Collar Aggregation Exemption, *i.e.*, that if the terms of the exemption are met, the segments of an OTC collar will never both be in-the-money at the same time or exercised. Under current rules, assuming that stock ABCD is subject to a basic position limit of 25,000 contracts, market participant taking advantage of the Equity Option Hedge Exemption could establish a hedged position on ABCD involving a total of 75,000 conventional equity option contracts (three times the basic limit), including 50,000 contracts that are established under the Equity Option Hedge Exemption. A market participant using the OTC Collar Aggregation Exemption could then establish a conventional position of 50,000 long (short) calls and 50,000 short (long) puts, for a total of 125,000 contracts overlying ABCD. The proposed rule change to the OTC Collar Aggregation Exemption would allow a market participant to establish a collar consisting of two segments, each of which involves a position three times greater than the basic position limit. Consequently, using the example above, a market participant could establish an OTC collar on ABCD involving 75,000 long (short) calls and 75,000 short (long) puts, for a total of 150,000 contracts.[11]

If, however, the basic position limits for conventional options were tripled, as proposed above, the permissible options position established under the OTC Collar Aggregation Exemption would be correspondingly increased. For example, if the market participant in the above example had increased the size of its conventional options position to 225,000 contracts pursuant to the Equity Option Hedge Exemption as proposed above (based upon a limit of three times the 75,000 conventional equity options position limit), the market participant could establish an OTC collar on ABCD involving 225,000 long (short) calls and 225,000 short (long) puts, for a total of 450,000 contracts.

Finally, in addition to the proposed rule changes discussed above, the NASD is proposing to clarify and update the examples contained in IM–2860–1 so that they are consistent with the instant proposal and prior increases in the hedge exemption.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[12] which requires, among other things, that the Association's rules be 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. NASD Regulation believes that the proposed rule change, which will increase the position limits on conventional equity options, disaggregate conventional equity options from exchange-traded equity options for position limit purposes, and provide that the OTC Collar Aggregation Exemption may be

[9] Rule 2860(b)(3)(A)(vii).

[10] Rule 2860(b)(3)(A)(viii).

[11] While the OTC Collar Aggregation Exemption is self-effectuating with respect to the hedged components of conventional options positions, NASD Regulation has also permitted members to include non-hedged positions within OTC collars under the terms of the OTC Collar Aggregation Exemption on a pre-approval basis. Accordingly, the instant rule change would turn this pre-approval process for non-hedged components of OTC collars into a self-effectuating process.

[12] 15 U.S.C. 78*o*–3(b).

utilized with respect to any conventional equity options position, not just that portion of the position that was established pursuant to the NASD's Equity Option Hedge Exemption, will enable market participants to establish larger positions in conventional equity options and, thus, will help to ensure that participants in the OTC options market are not placed at a competitive disadvantage vis-a-vis the exchange markets. In addition, NASD Regulation believes that increasing the position limits for conventional equity options will afford market participants, particularly portfolio managers, issuers, and sophisticated institutional investors, greater flexibility to employ larger options positions when effectuating their investment strategies.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the 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 at the Commission's Public Reference Room, located at the above address. 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–NASD–98–23 and should be submitted by May 19, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11169 Filed 4–27–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39892; File No. SR–NASD–98–18]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Qualified Immunity in Arbitration Proceedings for Statements Made on Forms U–4 and U–5

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 21, 1998, NASD Regulation, Inc. ("NASD Regulation") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. 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

NASD Regulation is proposing to add a new rule to the Rules of the National Association of Securities Dealers, Inc. ("NASD" or "Association"), to provide members of the NASD with qualified immunity in arbitration proceedings for statements made in good faith in certain disclosures filed with the NASD on Forms U–4 and U–5, the uniform registration and termination notices for registered persons. Below is the text of the proposed rule change.

Proposed new language is in italics.

* * * * *

Rule 1150. Regulatory Form Disclosures

(a) Mandatory Disclosures

A member must make truthful and accurate statements on the covered forms required under Article V, Sections 2 and 3 of the By-Laws.

(b) Qualified Immunity

(1) This paragraph shall apply to any arbitration proceeding between a member or other party and a covered person relating to statements made in response to an information requirement of a covered form with respect to such covered person, to the extent that such statements are contained in a covered form that has been or, at a subsequent point in time, is (A) filed with a regulatory authority or self-regulatory organization, and (B) disseminated by reason of such filing, or otherwise disseminated orally, in writing, or through any electronic medium to an appropriate person.

(2) A defending party shall not be liable in a proceeding to a covered person for any defamation claim related to an alleged untrue statement that is contained in a covered form if the statement was true at the time that the statement was made.

(3) A defending party shall not be liable in a proceeding to a covered person for any defamation claim related to an alleged untrue statement that is contained in a covered form unless the covered person shows by clear and convincing evidence that:

(A) the defending party knew at the time that the statement was made that it was false in any material respect; or

(B) the defending party acted in reckless disregard as to the statement's truth or falsity.

(c) Definitions

For purposes of this Rule:

(1) The term "appropriate person" means any federal or state governmental or regulatory authority, and self-regulatory organization, any employer or prospective employer of a covered person, or any person who requests or is required to obtain information concerning the covered person from the defending party and as to whom the defending party has a legal obligation to provide such information.

(2) The term "claim" means any claim, counterclaim, third-party claim, or cross-claim.

(3) The term "covered form" means any form or notice required under

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1).

Article V, Sections 2 and 3 of the By-Laws, including Forms U–4 and U–5. Disclosure Reporting Pages, and related explanatory materials.

(4) The term "covered person" means any present or former registered person or other employee of a member who is a party to a proceeding relating to a dispute within the scope of this Rule.

(5) The term "defending party" means any member who is a party to a proceeding and who is adverse to a covered person who is a party, and any associated person of such member.

(Rule 1150 is effective beginning on (Date) 1998 and ending on (Date) 2002, and applies to claims relating to any covered forms, as defined in Rule 1150, that are filed during that period.)

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with Commission, NASD Regulation 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. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Summary. The proposed rule is designed to deal with the prospect that member firms may be reluctant to make complete disclosures on forms required to be filed with the NASD because of the potential for lawsuits relating to defamation claims by former or present employees. The proposed rule would create a uniform qualified immunity standard for statements made in good faith in certain disclosures filed with the NASD on Forms U–4 and U–5. To overcome this qualified immunity, a registered person would have to prove in an arbitration proceeding by clear and convincing evidence that the member firm knew at the time the statement was made that it was false in any material respect, or that the member acted in reckless disregard to the statement's truth or falsity. For purposes of NASD arbitration, the rule would supersede state law on the same subject.

Background. This issue arises primarily in the context of filings made on Form U–5 following termination of employment of a registered person. The NASD By-Laws (Article V, Section 3) require that the member give notice of the termination to the NASD within 30 days after the termination, and that the member provide a copy simultaneously to the registered person. The By-Laws also require that the member notify the NASD, and send a copy to the registered person, within 30 days if the member learns of facts or circumstances causing any information in the prior notice to become inaccurate or incomplete.

Form U–5, which is entitled the "Uniform Termination Notice for Securities Industry Registration," is a form used throughout the securities industry at both the federal and state level. It requires that the member indicate the reason for the termination by checking one of the blocks labeled Voluntary, Deceased, Permitted to Resign, Discharged, or Other. If one of the last three blocks is checked, the member must provide an explanation. Regardless of the block checked, the member also must indicate whether the registered person, during the period of his or her association with the member, was involved in certain types of disciplinary actions, the subject of a customer complaint, convicted of certain crimes, or under investigation or internal review.

In recent years, registered persons have brought, primarily in arbitration, a number of defamation [2] claims for allegedly untrue or misleading statements made on the Form U–5.[3] Because of the financial interests at issue the potential for substantial damages may exist in a number of cases. The NASD believes that the potential for liability, or for inconsistent standards of liability, is a significant disincentive for firms to provide full and fair disclosure. Failure to make full disclosure of disciplinary problems has the potential to compromise the integrity of the Central Registration Depository, and hinders enforcement action by the NASD and other regulators. At the same time, the NASD believes it is important that any solution provide adequate protection to employees from statements designed to penalize unfairly a departing employee, or to prevent him or her from obtaining new employment or attracting existing customers to another member firm where the person has subsequently become employed.

Development of the Rule Proposal. The NASD met periodically during 1997 to discuss defamation issues with representatives of member firms, the Securities Industry Association, the New York Stock Exchange ("NYSE"), the North American Securities Administrators Association, and attorneys who often represent registered representatives in court litigation and in arbitration proceedings.

Many members of the industry favored a regulatory standard providing for absolute immunity. Most state court decisions that have considered this issue in the Form U–5 or in similar contexts have adopted a qualified immunity standard. However, one New York state court decision has expressly recognized an absolute immunity standard with respect to statements contained in the Form U–5.[4] Those states that, by court decision or statute, have adopted a qualified immunity standard in the same or similar contexts, require that falsity or recklessness be proved either by "preponderance of the evidence" or by "clear and convincing evidence," as discussed below.

In order to obtain as many views as possible, the NASD published a draft of the proposed rule change in a Notice to Members ("NTM 97–77") that was mailed to member firms and other subscribers, and was also posted on the NASD Regulation Web site and sent to a group of attorneys who represent employees, to registered representatives

[2] "Defamation" has been defined as an "intentional false communication, either published or publicly spoken, that injures another's reputation or good name." *Black's Law Dictionary* 417 (6th ed. 1990). "Libel" (written defamation) and "slander" (spoken defamation) are both methods of defamation. *Id* at 1388.

[3] Defamation claims may also arise with respect to disclosures on Form U–4, which is required to be filed by registered persons upon the occurrence of certain events, but which in practice is often drafted by the member firm with which the individual is associated.

[4] *Herzfeld & Stern, Inc.* v. *Beck*, 572 N.Y.S.2d 683 (N.Y. App. Div. 1991), *appeal dismissed*, 79 N.Y.2d 917 (1992). The court reasoned that federal law had established a comprehensive system of oversight and self-regulation by the NYSE in order to ensure adherence by members of the industry to both the statutory mandates and ethical standards of the profession, and concluded that the NYSE's disciplinary function conforms to the requirements of a quasi-judicial administrative proceeding. Therefore, statements made on a Form U–5 and later used as the basis for an NYSE investigation were considered "statements uttered in the course of a judicial or quasi-judicial proceeding [which are] absolutely privileged so long as they are material and pertinent to the questions involved notwithstanding the motive with which they are made." *Id.* at 683. *But see Fleet Enterprises, Inc.* v. *Velinsky*, No. 604462/96 (N.Y. Sup. Ct. Jan. 16. 1997), in which a lower court in New York rejected a brokerage firm's petition, on absolute privilege grounds, to stay the arbitration of Form U–5 defamation claims, and ordered arbitration to proceed, applying the Federal Arbitration Act as to the issue of arbitrability. The court stated that "whether New York substantive law will apply to Velinsky's claims in arbitration is for the arbitrator to decide." Slip op. at 5. *See also Fahnestock & Co., Inc.* v. *Waltman*, 935 F.2d 512 (2d Cir. 1991); *Culver* v. *Merrill Lynch & Co., Inc.*, 1995 U.S. Dist. Lexis 10017 (S.D.N.Y. 1995).

groups, and to others. That proposal included a provision that would require member firms to give notice of the contents of a Form U–5 (and amendments) to the subject of the form at least ten days prior to filing the form, and would require members to provide immediate notification to employees of material revisions to be filed on Form U–5. Fifty-three comments were received and considered by the NASD. The advance notice provision was the subject of almost universal criticism, as described below. A revised proposal was approved by the NASD Regulation and NASD Boards in January 1998.

Details of the Proposed Rule. The proposal rule would provide that members and associated persons will not be liable to an employee for a claim that is related to an alleged untrue statement contained in Form U–4 or U–5 pertaining to the employee, unless the employee can prove by clear and convincing evidence that the defending party knew that the statement was false in any material respect, or acted in reckless disregard as to its truth or falsity.

As noted above, state law standards generally provide for some type of qualified immunity for statements of the type that are required by the covered forms, and therefore the rule may not represent a substantial change in the standard that would apply in a given case, but will instead provide a uniform standard to which parties and arbitrators can look for guidance. NASD Regulation in concerned, however, that the proposal not signal a willingness to tolerant false or malicious statements by member firms with respect to their employees, either through disclosures on the covered forms or through other venues. Any such statements clearly violate the obligation of members to provide accurate information to NASD Regulation and are inconsistent with just and equitable principles of trade.

In particular, NASD Regulation is concerned with the potential that disclosures contained on covered forms may be used deliberately by one member to limit the mobility of registered persons who have determined to find employment with another member, or to delay the effectiveness of the transfer of employment.[5] As noted, such conduct would be grounds for disciplinary action, and during the rule's pilot period, NASD Regulation intends to consider and investigate evidence of misuse of covered forms other forms, or regulatory processes for improper purpose. In addition, NASD Regulation will provide a mechanism through its Internet Web Site to obtain input from employees, member firms, and others as to the operation of the pilot program and to report potential abuses. To the extent that NASD Regulation determines that misuse of regulatory processes has increased during the pilot period, it may determine to modify or terminate the rule prior to the end of that period. Finally, NASD Regulation will provide training to arbitrators to ensure that they are cognizant of these concerns, that they understand the application of the rule, and that the rule is applied only with respect to appropriate types of claims.[6]

Paragraph (a) of the proposed rule states that members must provide truthful and accurate statements in response to the information requirements of the forms required under Sections 2 and 3 of Article V of the Association's By-Laws, *i.e.*, Forms U–4 and U–5 and attachments to those forms. This paragraph make clear that the purpose of the proposed rule is to further the goal of accurate disclosure, and is intended to reaffirm the existing disclosure obligation of NASD members as set forth in the By-Laws. The word "complete" was deleted from the draft version of the proposed rule, to address the concern of some commenters that this language could be construed as adding a new but vague requirement of "completeness" and could create liability beyond that contemplated by the By-Laws.

The proposed rule would apply to statements made on "covered forms." Covered forms are defined in paragraph (c)(3) to include forms or notices required under Article V, Sections 2 and 3 of the By-Laws, including Disclosure Reporting Pages and other explanatory materials attached to the forms or notices. Although the area of greatest focus has involved the filing of Form U–5 in connection with employee terminations, members of the industry have indicated that required disclosures pertaining to employees on Form U–4 provide the same potential for liability, and NASD Regulation believes that the same regulatory interests in complete disclosure apply to statements on that form. The rule would apply to statements made by a member firm on a covered form with respect to a present or former employee of the firm. The rule would also apply to the liability of both member firms and associated persons, and accordingly would apply to both the signatory of the form or other persons involved in the preparation of the form as well as the member itself.

The rule as proposed in NTM 97–77 would have required members to provide employees with copies of proposed language on Form U–5 describing the reason for termination at least ten days before the filing of the form or an amendment to the form. In addition, members would have been required to provide to the employee immediate notice of revisions to the proposed language. The purpose of these provisions was to provide employees with an opportunity to seek amended disclosure language when they could demonstrate obvious inaccuracies.

After further review, NASD Regulation has determined to delete these provisions in light of the comments received. The comments of both members and registered representatives were overwhelmingly negative with regard to this part of the proposal. Many commenters expressed the view that these provisions would lead to "negotiated" or "watered down" disclosure, and some suggested that it could compromise ongoing internal investigations. Some commenters stated that the period was too short for meaningful review of the Form U–5, while other commenters felt that the period was too long in that it left broker/dealers only 20 days within which to prepare the forms and mail them to employees, since Form U–5 must be filed with the NASD within 30 days after termination. Some commenters pointed out that employees already have an opportunity to comment on certain reportable events through filing of an amended Form U–4.

The proposed rule would provide qualified protection to statements only to the extent that they are contained in a covered form that has been or, at a subsequent point in time, is filed with any federal or state regulatory authority, or self-regulatory organization, and are disseminated to "appropriate persons." Therefore, oral statements are covered by the qualified immunity only to the extent that they track language that is already or later incorporated into the covered form. In this context, paragraph (c)(1) of the proposed rule defines "appropriate persons" to include, in addition to regulatory organizations, current or prospective employers and others who affirmatively request information concerning the employee

[5] NASD Rule 10335 of the Code of Arbitration Procedure contains special provisions for injunctive relief in circumstances where fast interim relief is necessary.

[6] Because the rule as proposed would apply only to claims for defamation, it would not affect other claims, *e.g.*, tortuous interference with contractual relations, to the extent that such claims would constitute substantially different causes of action and not merely recharacterization of defamation claims.

and as to whom the member has an obligation to provide the information. The latter provision is designed to ensure that the rule would apply to requests from persons as to whom applicable legal standards require the disclosure of the information.

Paragraph (b)(2) of the proposed rule provides that a defending party shall not be liable for a defamation claim if the statement was true at the time that the statement was made. As noted above, Article V, Section 3 of the NASD By-Laws already requires that the member notify the NASD, and send a copy to the registered person, within 30 days if the member learns of facts or circumstances causing any information in the prior notice to become inaccurate or incomplete.

Paragraph (b)(3) of the proposed rule contains the basic legal standard found in federal and state court decisions that recognize a qualified immunity in various contexts. The courts do not, however, consistently define the burden of proof that a plaintiff must meet in order to show that a false statement was made knowingly or recklessly. Some decisions apply the "preponderance of the evidence" standard that most commonly applies to claims and defenses in civil litigation. Others apply a stricter "clear and convincing" standard. In some cases, decisions in the same jurisdiction conflict on this point. The NASD believes that, because no one standard is dominant, the standard applied should be the one that will reach best the goals to which the proposed rule is addressed. The NASD has determined that the "clear and convincing" standard provides a good balance, in that it provides some protection to member firms against defamation claims for statements they are required to provide, while still providing that members are liable for clear cases of abusive or malicious disclosure.

NTM 97–77 asked for comment as to whether NASD Regulation should seek to provide a mandatory pre-filing or arbitration procedure to resolve termination disputes prior to the 30-day period following termination in which the Form U–5 is required to be filed. Most of the comments addressing this issue suggested that such a procedure could not effectively resolve disputes within this time frame. NASD Regulation has determined that a mandatory procedure would raise too many difficult practical and timing issues to be useful, but will endeavor to provide mediators on an expedited basis when both parties are interested in resolving disputes at an early stage.

The proposed rule would apply for a pilot period of four years. Prior to the end of that period, the staff will review a sample of filings made during the period of the rule's effectiveness to attempt to gauge the nature and quality of disclosure that has been provided, in contract with forms filed prior to the pilot period.

2. Statutory Basis

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act, which requires, among other things, that the Association's rule must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. The NASD believes that the proposed rule change will encourage fuller disclosure by member firms of any regulatory problems concerning a registered representative and thus provide more complete information to the investing public through the Public Disclosure Program and to other broker/dealers through the Central Registration Depository.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was published for comment in NASD Notice to Member 97–77 (November 1977). Fifty-three comments were received in response to the Notice.

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 for 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–98–18 and should be submitted by May 19, 1998,

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11211 Filed 4–27–98; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39903; File No. SR–NYSE–98–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to the Trading of Bonds

April 22, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on April 15, 1998, the New York Stock Exchange, Inc. ("NYSE" 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 NYSE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE is proposing amendments to its rules and procedures governing the trading of bonds. The Exchange is deleting obsolete provisions of its bond trading rules, streamlining those rules, and consolidating the bond-trading rules in new Rule 86. In addition to adopting new Rule 86, the proposal includes amendments to the following Exchange rules: Rule 13; Rule 61; Rule 70; Rule 72; Rule 76; Rule 79A; and Rule 85.

II. Self-Regulatory Organization's Statement of the Proposed 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange currently trades non-convertible bonds in its Automated Bond System® ("ABS") and convertible bonds on its bond Floor. Later this year, the Exchange will move all bond trading into ABS. Currently, various Exchange rules govern the trading of bonds, particularly Rule 85, governing the trading of "cabinet" securities. The proposed rule change will provide for uniform bond trading procedures and will consolidate those procedures in new Rule 86.[2] The rule change (i) will incorporate into new Rule 86 the same price/time priority matching procedures as Rule 85, (ii) will establish appropriate cross references to new Rule 86 in other NYSE rules and (iii) will eliminate the rules governing trading on the bond Floor, which will no longer be necessary.

A substantive change the Exchange is proposing involves the crossing of bonds. Currently, Rule 85 requires that a member hold a proposed cross for a "reasonable" period of time before effecting the cross, and that the member announce the intention to effect the cross on the bond Floor. For the purposes of ABS, the Exchange has interpreted this as requiring a member to display a proposed cross in ABS for two minutes prior to effecting the trade. The Exchange's experience with these crossing procedures indicates that they no longer are needed. There are very few crosses in ABS (approximately two to four a day), and those that do take place are of small size (generally between two and nine bonds). Furthermore, most crosses involve instances where bond brokers receive matching buy and sell orders from two different correspondent firms within two minutes of each other. Also, members may cross orders of ten bonds and over off the Exchange, with the result being that the current rule places the Exchange at a competitive disadvantage to off-Exchange markets.

The final change to the bond trading rules moves the rules governing transactions at wide variations from Rule 79A.40 to new Rule 86(g). For non-convertible bonds, the Exchange is retaining the requirement that a Floor Official approve all sales made two points away from the last sale or more than 30 days after the last transaction. The Exchange is not proposing to apply those requirements to convertible bonds, since such bonds generally are priced in relation to the underlying equity security. However, new Rule 86(g) allows a Floor Governor to impose the same requirements on the trading of convertible bonds if market conditions warrant.

2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under Section 6(b)(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 proposed rule change does not 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 Action

Within 35 days of the date of publication of this notice 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, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the File No. SR–NYSE–98–13 and should be submitted by May 19, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

[2] New Rule 86 specifies that these bond trading procedures apply only to bonds "traded through ABS." The Exchange trades certain bonds, such as equity-linked securities, on its stock Floor. These securities are traded pursuant to NYSE equity-trading procedures and are not subject to Rule 86. *See* Securities Exchange Act Release No. 32650 (July 16, 1993) 58 FR 39586 (July 23, 1993).

[3] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,
Deputy Secretary.
[FR Doc. 98–11210 Filed 4–27–98; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39898; File No. SR–Philadep–98–01]

Self-Regulatory Organizations; Philadelphia Depository Trust Company; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to an Increase in the Number of Directors

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 31, 1998, the Philadelphia Depository Trust Company ("Philadep") filed with the Securities and Exchange Commission ("Commission"), as amended on April 21, 1998, the proposed rule change as described in Items I and II below, which items have been prepared primarily by Philadep. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves an amendment to Philadep's by-laws and articles of incorporation to increase the number of directors on board from between 5 and 9 to between 5 and 23 and to include the president of Philadep on its board.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Philadep 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. Philadep has prepared summaries, set forth in sections A, B, 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

The proposed rule change will amend Philadep's by-laws and articles of incorporation to increase the permitted size of the board from between 5 and 9 directors to between 5 and 23 directors and to include the president of Philadep on its board. According to Philadep, all other provisions of the by-laws prescribing the composition of the board will remain unchanged. According to Philadep, the rule change is desirable due to the interest of the Board of Governors of the Philadelphia Stock Exchange ("Phlx") to more fully participate in the operation and control of Philadep.

Philadep also believes that a larger board will provide greater diversity and add policy making expertise to the process. In addition, Philadep believes that a Philadep board comprised of members from Phlx will allow greater coordination in scheduling meetings involving members from both the boards.[3]

Philadep believes that the proposed rule change provides for the fair representation of shareholders and participants in the selection of Philadep's directors and in the administration of Philadep's affairs and therefore that it is consistent with Section 17A(b)(3)(C) of the Act and the rules and regulations thereunder applicable to Philadep.[4]

(B) Self-Regulatory Organization's Statement on Burden on Competition

Philadep 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

Philadep has not solicited and does not intend to solicit comments on this proposed rule change. Philadep has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(C) provides that the rules of a clearing agency must provide for the fair representation of its shareholders or members and participants in the selection of directors. The Commission believes that the increase in the size of Philadep's board is consistent with the Act's fair representation requirements because the resized board should allow the board to more accurately reflect the controlling interest of the Phlx and its Board of Governors while still providing for fair representation of Philadep's participants.

Philadep has required that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in order that this increase be implemented at the meeting of Phlx's board of directors scheduled for April 22, 1998. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because such approval will allow the Phlx to increase Philadep's board size at its April 22, 1998, meeting.[5]

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 also will be available for inspection and copying at the principal office of Philadep. All submissions should refer to File No. SR–Philadep–98–01 and should be submitted by May 19, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[6] that the

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by Philadep.

[3] Telephone conversation between Edith Hallahan, Counsel, Philadep, and Greg Dumark, Attorney, Division of Market Regulation, Commission (April 20, 1998).

[4] 15 U.S.C. 78q–1(b)(3)(C).

[5] John Rudolph, Supervisory Trust Analyst, Board of Governors of the Federal Reserve Board, concurred with the Commission's granting of accelerated approval per a telephone conversation on April 21, 1998.

[6] 15 U.S.C. 78s(b)(2).

proposed rule change (File No. SR–Philadep–98–01) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11213 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39895; File No. SR–Phlx–98–07]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the Philadelphia Stock Exchange, Inc., Relating to the Listing and Trading of Options on the Exchange's Computer Box Maker Index

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 5, 1998, the Philadelphia Stock Exchange, Inc. ("Exchange" or "Phlx") 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 by the Exchange. On April 3, 1998, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[2] On April 20, 1998, the Exchange filed with the Commission Amendment No. 2 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is accelerating approval of the amended proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade European style, cash-settled options, including long term options,[4] on the Exchange's Computer Box Maker Index ("Index"). The Index is a price-weighted, narrow-based, A.M. settled, index comprised of nine stocks issued by companies that manufacture, market, and support desktop and notebook personal computers and fault tolerant systems.[5]

The text of the proposed rule change is available at the Office of the Secretary, the Exchange, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 purpose of the proposed rule change is to list for trading European style, cash-settled options on the Index, a new index developed by the Exchange pursuant to Exchange Rule 1009A(a). Options on the Index will provide a potential hedging vehicle for basket traders and other market participants who trade the securities comprising this small subsector of the technology industry. The following is a detailed description of the proposed option contract and the underlying Index:

(a). *Ticker Symbol:* BMX.

(b). *Settlement Value Symbol:* BMZ.

(c). *Underlying Index:* The Index is a price-weighted index comprised of nine stocks issued by companies that manufacture, market, and support desktop and notebook personal computers and fault tolerant systems. All of the nine component stocks trade on the New York Stock Exchange, Inc. ("NYSE"), or are National Market System ("NMS") securities that trade through the facilities of the Nasdaq Stock market ("Nasdaq"), and therefore are reported securities as defined in Rule 11Aa3–1 under the Act.[6] Further, all of the component stocks presently meet the Exchange's listing criteria for equity options contained in Exchange Rule 1009 and are currently the subject of listed options on U.S. national securities exchanges.

The Exchange represents that only the securities of U.S. companies are represented in the Index. However, if component securities issued by non-U.S. companies are added to the Index (stocks or American Depositary Receipts) and such component securities are not subject to comprehensive surveillance sharing agreements, those component securities will not account for more than 20% of the weight of the Index.

Statistical information provided by the Exchange indicates that as of April 2, 1998, the aggregate market capitalization of the nine component stocks in the Index exceeded $266 billion. The individual market capitalizations ranged from a high of $103.4 billion (IBM) to a low of $3.43 billion (Unisys Corp.). Each of the nine component stocks in the Index had average daily trading volumes in excess of one million shares per trading day over the preceding six months. The average daily trading volumes ranged from a high of 19.9 million shares per day (Compaq Computer Corp.) to a low of 2.1 million shares per day (Gateway 2000, Inc.). The Exchange believes the Index's component stocks are some of the most widely held and highly capitalized common stocks.

(d) *Index Calculation:* The Index is a price-weighted index. The following formula will be used to compute the Index value:

$$\frac{SP_1 + SP_2 + \ldots SP_9}{3.5} \times 100$$

Where: SP=current stock price

The initial divisor is an arbitrary number selected to achieve a certain index value. The divisor for the Index shall be 3.5 which generates an Index value of 118 as of April 2, 1998.

(e). *Index Maintenance:* To maintain the continuity of the Index, the divisor

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[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Amendment No. 1 revised the proposal's maintenance criteria, position and exercise limits, concentration limits, and corrected technical errors and oversights.

[3] Amendment No. 2 clarified that the 9,000 contract position limit governing options on the proposed index is independent of the three-tiered position limits found in Exchange Rule 1001A(b)(i), and instead appears as part of Exchange Rule 1001A(c). The second amendment also modified the concentration criteria that trigger the application of alternative position and exercise limits. *See* Letter to Sharon Lawson, Senior Special Counsel, Division of Market Regulation, Commission, from Nandita Yagnik, Attorney, Exchange, dated April 20, 1998.

[4] *See* Exchange Rule 1101A(b)(iii). Long term options also are referred to as "LEAPs." For ease of reference and clarity, the term "options" hereafter shall include LEAPs where applicable.

[5] The Index is comprised of the following stocks (primary markets in parentheses): Apple Computer, Inc. (Nasdaq); Compaq Computer Corp. (NYSE); Dell Computer Corp. (Nasdaq); Gateway 2000, Inc. (NYSE); Hewlett Packard Co. (NYSE); International Business Machines (NYSE); Micron Technology, Inc. (NYSE); Sun Microsystems, Inc. (Nasdaq); and Unisys Corp. (NYSE).

[6] 17 CFR 240.11Aa3–1.

will be adjusted to reflect non-market changes in the price of the component securities as well as changes in the composition of the Index. Changes which may result in divisor adjustments include, but are not limited to, stock splits, dividends, spin-offs, mergers, and acquisitions. In accordance with Exchange Rule 1009A, if any change in the nature of any component in the Index (for example, due to a delisting, merger, acquisition or other event) will change the overall market character of the Index, the Exchange will take appropriate steps to remove the component stock or replace it with another stock that the Exchange believes would be compatible with the intended market character of the Index. The Exchange represents that any replacement components will be reported securities as defined in Rule 11Aa3–1 of the Act.

Initially, the Index will be comprised of nine component stocks. Absent Commission approval, the Exchange will not increase the number of components to more than twelve or reduce the number of components to fewer than eight. The Exchange represents that the component stocks, comprising the top 90% of the Index, by weight, will each maintain a minimum market capitalization of $75 million. The remaining 10%, by weight, will each maintain a minimum market capitalization of $50 million. The component stocks comprising the top 90% of the Index, by weight, will each maintain a trading volume of at least 500,000 shares per month. The trading volume for each of the component stocks constituting the bottom 10% of the index, by weight, will average at least 400,000 shares per month. No fewer than 90% of the component securities, by weight, or no fewer than 80% of the total number of the components, shall qualify as stocks eligible for options trading.[7] If the Index fails at any time to satisfy one or more of the required maintenance criteria, the Exchange will immediately notify the Commission staff of that fact and will not open for trading any additional series of options on the Index, unless the Exchange determines that such failure is insignificant and the Commission concurs in that determination, or unless the Commission approves the continued listing of options on the Index under Section 19(b)(2) of the Act.[8] In addition to not opening for trading any additional series, the Exchange may, in consultation with the Commission, prohibit opening purchase transactions in series of options previously opened for trading to the extent that the Exchange deems such action necessary or appropriate.[9]

In addition to the above maintenance criteria, the Exchange represents that no single component security of the Index shall account for more than 35% of the Index, and that the three highest weighted component securities shall not account for more than 65% of the Index. If the Index fails to satisfy these concentration criteria, the Exchange will reduce the position and exercise limit to 5,500 contracts or to such other level approved by the Commission under Section 19(b) of the Act. All series of Index options would be scheduled for a position limit decrease to 5,500 contracts effective the Monday following the expiration of the farthest-out, then-trading, non-LEAP option series. If prior to the scheduled position limit decrease, however, the Index complied with the concentration requirements, the position limit would not be reduced. As of April 2, 1998, the highest weighted component stock (IBM) made up 24.6% of the Index and the top three components (IBM, Dell Computer Corp., and Hewlitt Packard Co.) accounted for 55% of the Index.

(f). *Unit of Trading:* Each option contract on the Index will represent $100 (the Index multiplier) times the Index value. For example, an Index value of 200 will result in an option contract value of $20,000 ($100 × 200).

(g). *Exercise Price:* The exercise price of an option contract on the Index will be set in accordance with Exchange Rule 1101A(a).

(h). *Settlement Value:* The Index value for purposes of settling outstanding Index option contracts upon expiration will be calculated based upon the regular way opening sale prices for each of the Index's component stocks in their primary market on the last trading day prior to expiration. In the case of National Market System securities traded through Nasdaq, the first reported sale price will be used for the final settlement value for expiring Index option contracts. In the event that a component security does not open for trading on the last day before the expiration of a series of Index option contracts, the last sale price for that security will be used in calculating the Index value. However, in the event that the Options Clearing Corporation ("OCC") determines that the current Index value is unreported or otherwise unavailable (including instances where the primary market(s) for securities representing a substantial part of the value of the Index is not open for trading at the time when the current Index value used for exercise settlement purposes would be determined), the OCC may determine an exercise settlement amount for the Index in accordance with Article XVII, Section 4, of the OCC By-Laws.[10]

(i). *Last Trading Day:* The last business day prior to the third Friday of the month for options which expire on the Saturday following the third Friday of that month.

(j). *Trading Hours:* 9:30 a.m. to 4:02 p.m. e.s.t.

(k). *Position and Exercise Limits:* The Index is an industry or narrow-based index. The position and exercise limits will be 9,000 contracts.[11] As described earlier, if at any time any one component security accounts for more than 35% of the Index, or any three component securities account for more than 65% of the Index, the Exchange will reduce the position and exercise limits to 5,500 contracts, or to such other level approved by the Commission under Section 19(b) of the Act.

(l). *Expiration Cycles:* Three months from the March, June, September, December cycle plus at least two additional near-term months. LEAPs also will be traded on the Index pursuant to Exchange Rule 1101A(b)(iii).

(m). *Exercise Style:* European.

(n). *Premium Quotations:* Premiums will be expressed in terms of dollars and fractions of dollars pursuant to Exchange Rule 1033A. For example, a bid or offer of 1½ will represent a premium per options contract of $150 ($1½ × 100).

The value of the Index will be calculated and disseminated every 15 seconds during the trading day. The Exchange has retained Bridge Data Inc. to compute and perform all necessary maintenance of the Index.[12] Pursuant to Exchange Rule 100A, updated Index values will be disseminated and displayed by means of primary market prints reported by the Consolidated Tape Association and over the facilities of the Options Price Reporting Authority ("OPRA"). The Index value also will be available on broker-dealer

[7] *See infra* note 23.

[8] *See* 15 U.S.C. 78s(b)(2), and Exchange Rule 1009A.

[9] *See* Exchange Rule 1010.

[10] *See* OCC By-Laws, Article XVII, Section 4, and Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 32471 (June 24, 1996).

[11] The 9,000 contract position limit for options on the Index is separate and independent of the position limits set forth in Exchange Rule 1001A(b)(i). *See supra* note 3.

[12] As a back-up to Bridge Data Inc., the Exchange will utilize its own internal index calculation system, the Index Calculation Engine ("ICE") System.

interrogation devices to subscribers of options information. The Exchange represents that it has the capacity to handle the additional traffic expected to be generated by the Index.[13] In addition, OPRA has informed the Commission that the additional traffic from option contracts on the Index is within OPRA's capacity.[14]

Option contracts on the Index will be traded pursuant to current Exchange rules governing the trading of narrow-based index options, including provisions addressing sales practices, floor trading procedures, margin requirements, and trading halts and suspensions.[15] The Exchange represents that the surveillance procedures currently used to monitor trading in index options also will be used to monitor options based on the Index. These procedures entail complete access to trading activity in the underlying component securities which all trade on either the NYSE or Nasdaq. In addition, the Intermarket Surveillance Group ("ISG") Agreement dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of option contracts on the Index.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6 of the Act,[16] in general, and with Section 6(b)(5),[17] in particular, in that it is designed to promote just and equitable principles of trade; prevent fraudulent and manipulative acts and practices; foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; remove impediments to and perfect the mechanism of a free and open market and a national market system; and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange did not solicit or receive written comments with respect to the proposed rule change.

II. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing proposed rule change and Amendment Nos. 1 and 2 thereto, including whether the proposed rule change, as amended, 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 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 persons, 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 the Exchange. All submissions should refer to File No. SR–Phlx–98–07 and should be submitted by May 19, 1998.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has requested that the Commission grant accelerated approval of the Index pursuant to Section 19(b)(2) of the Act.[18] The request for accelerated approval is predicated on the Index's substantial compliance with the generic listing standards[19] and the Exchange's desire to remain competitive in the area of new product development.[20]

V. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has carefully reviewed the Exchange's proposed rule change and believes, for the reasons set forth below, the proposal is consistent with the requirements of the Act and the rules thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[21] Specifically, the Commission finds that the trading of options on the Index will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means of hedging exposure to market risks associated with the securities issued by companies that manufacture and support computers.

The Commission finds that the trading of options on the Index will permit investors to participate in the price movements of the nine securities on which the Index is based. Further trading of options on the Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risks associated with these securities. Accordingly, the Commission believes that options on the Index will provide investors with an additional trading and hedging mechanism.[22]

Nevertheless, the trading of options on the Index raises several issues related to design of the Index, customer protections, and surveillance. The Commission believes, however, for the reasons described below, that the Exchange adequately has addressed these issues.

A. Index Design and Structure

The Commission believes it is appropriate for the Exchange to apply its rules governing the trading of narrow-based index options to options based on the Index. The Commission notes that the Index contains nine stocks representing one industry group, and thus reflects a very narrow segment of the U.S. equities market.

The Commission notes that the nine securities comprising the Index are actively-traded. For the six month period ending April 2, 1998, the average daily trading volume among the component securities ranged from a high of 19.9 million shares per day (Compaq Computer Corp.) to a low of 2.1 million shares per day (Gateway 2000, Inc.). In addition, the market capitalizations of the securities in the Index are extremely large, ranging from

[13] *See* Letter to Michael Walinskas, Senior Special Counsel, Office of Market Supervision, Commission, from Thomas A. Wittman, First Vice President, Trading Systems, Exchange, dated February 6, 1998.

[14] *See* Letter to Michael Walinskas, Senior Special Counsel, Office of Market Supervision, Commission, from Joseph P. Corrigan, Executive Director, OPRA, dated February 11, 1998.

[15] *See* Exchange Rule 722, Exchange Rules 1000A through 1102A, and generally Exchange Rules 1000 through 1072.

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(5).

[18] 15 U.S.C. 78s(b)(2).

[19] *See infra* note 27.

[20] *See* Letter to Michael Loftus, Attorney, Division of Market Regulation, Commission, from Nandita Yagnik, Attorney, Exchange, dated April 3, 1998.

[21] 15 U.S.C. 78f(b)(5).

[22] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new option proposal upon a finding that the introduction of such new derivative instrument is in the public interest. Such finding would be difficult for a derivative instrument that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

a high of $103.4 billion (IBM) to a low of $3.43 billion (Unisys Corp.) as of April 2, 1998. Finally, no one component stock accounted for more than 24.6% of the Index's total value, and the percentage weighting of the three largest issues in the Index accounted for 55% of the Index's value.

With respect to the maintenance of the Index, the Commission believes the Exchange has implemented several safeguards in connection with the listing and trading of options on the Index that will serve to ensure that the Index remains comprised of highly-capitalized, actively-traded securities, thereby ensuring that the Index will remain substantially the same over time. In this regard, the Exchange will maintain the Index so that: (1) the component securities comprising the top 90% of the Index, by weight, each will have market capitalizations of at least $75 million, and the remaining 10% each will have market capitalizations no less than $50 million; (2) the component securities comprising the top 90% of the Index, by weight, each will have monthly trading volumes of at least 500,000 shares, and the remaining 10% each will have monthly trading volumes no less than 400,000 shares; (3) at least 90% of the components in the Index, by weight, and 80% of the number of components in the Index will be eligible [23] for standardized options trading; (4) the component securities will be "reported" securities pursuant to Rule 11Aa3–1 of the Act; [24] (5) absent approval from the Commission pursuant to Section 19(b)(2) of the Act, the Exchange will not increase the number of components to more than twelve or reduce the number of components to fewer than eight; and (6) if any component security requires replacement because of a delisting, merger, acquisition, or other event affecting the market character of such component security, the Exchange will replace it with another security that the Exchange believes would be compatible with the intended market character of the Index.

The Commission further believes the maintenance standards governing the Index will help protect against material changes in the composition and design of the Index that might adversely affect the Exchange's obligations to protect investors and to maintain fair and orderly markets in options based on the Index. The Exchange is required to immediately notify the Commission staff if the Index fails at any time to satisfy one or more of the specified maintenance criteria. Further, in such an event, the Exchange will not open for trading any additional series of options on the Index, unless the Exchange determines that such failure is insignificant and the Commission concurs in that determination, or unless the Commission approves the continued listing of options on the Index under Section 19(b)(2) of the ACt.[25]

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options based on the Index, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-listed options occurs in an environment that is designed to ensure that: (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options will be subject to the same regulatory regime as the other standardized options currently traded on the Exchange, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Index options.

C. Surveillance

In evaluating new derivative instruments, the Commission, consistent with the protection of investors, considers the degree to which the derivative exchange has the ability to obtain information necessary to detect and deter market manipulation and other trading abuses. Therefore, the Commission believes that a surveillance sharing agreement between an exchange proposing to list a security index derivative product and the exchange(s) trading the securities underlying the derivative product is an important measure for surveillance of the derivative and underlying securities markets. Such agreements facilitate and ensure the availability of information needed to fully investigate manipulation if it were to occur.[26] In this regard, the Commission notes that the primary markets for the stocks underlying the Index—the NYSE and the NASD (the self-regulatory organization which oversees Nasdaq)—as well as the Exchange, are members of the ISG, which provides for the sharing of all necessary surveillance information. The Commission believes this arrangement will ensure the availability of information necessary to detect potential manipulations and other trading abuses.

The Commission finds good cause for approving the proposal, including Amendment Nos. 1 and 2 thereto, prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission notes that proposed rule changes regarding the listing and trading of options on narrow-based indexes may become effective immediately upon filing provided they satisfy certain generic listing standards.[27] The generic listing standards establish minimum guidelines concerning the design and operation of narrow-based indexes. The Commission recognizes that the Index, as amended, satisfies all of the generic listing standards save two, the minimum number of component securities [28] and the concentration limits.[29] In addition, to the extent that the Index deviates from the generic listing standards in these categories, the Commission notes that the Exchange has amended its proposal to adequately address the concerns identified by the Commission staff. This includes for example, providing for a reduction in position and exercise limits if the concentration limits are exceeded, and maintaining the Index at a minimum of eight component securities.[30] Therefore, the

[23] The Exchange's options listing standards, which are uniform among the options exchanges, provide that a security underlying an option must, among other things, meet the following requirements: (1) the public float must be at least 7,000,000 shares; (2) there must be a minimum of 2,000 securityholders; (3) trading volume in the U.S. must have been at least 2.4 million shares over the preceding twelve months; and (4) the market price per share must have been at least $7.50 for a majority of the business days during the preceding three calendar months. *See* Exchange Rule 1009, "Criteria for Underlying Securities," Commentary .01.

[24] 17 CFR 240.11Aa3–1.

[25] *See* 15 U.S.C. 78s(b)(2), and Exchange Rule 1009A.

[26] *See* Securities Exchange Act Release No. 31243 (Sept. 28, 1992), 57 FR 45849 (Oct. 5, 1992).

[27] *See* Securities Exchange Act Release No. 34157 (June 3, 1994), 59 FR 30062 (June 10, 1994). Although, a proposed rule change filed in accordance with the generic listing standards becomes effective immediately upon filing, trading in the approved options may not commence until 30 days after the date of effectiveness.

[28] The generic listing standards require that a narrow-based index initially consist of no fewer than ten component securities. Thereafter, it may not consist of fewer than nine component securities. *Id.*

[29] Under the generic listing standards, an individual component security may not represent more than 25% of the weight of the index. Furthermore, in an index of less than 25 components, the five highest weighted component securities may not constitute more than 60% of the weight of the index. *Id.*

[30] As previously noted, the Index currently contains nine securities and may consist of as few as eight component securities. On other occasions,

Commission believes there is no compelling reason to delay the listing and trading of options based on the Index. Accordingly, because the Index substantially complies with the generic listing standards, and the investor protection concerns have been addressed, the Commission finds good cause exists for granting accelerated approval to the proposed rule change and Amendment Nos. 1 and 2 thereto.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change, SR–Phlx–98–07, and Amendment Nos. 1 and 2 thereto, are hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[32]

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39889; File No. SR–Phlx–97–51]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to the Allocation of Options Trades

April 20, 1998.

I. Introduction

On October 22, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" 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 amend two Floor Procedure Advices ("Advices"): F–2, Allocation, Time Stamping, Matching and Access to Matched Trades; and F–12, Responsibility for Assigning Participation. The proposed rule change was published for comment in the **Federal Register** on December 10, 1997.[3] No comments were received on the proposal. This order approves the proposal.

II. Description of the Proposal

The Phlx proposes to amend the two Advices to provide that the seller or largest participant to an option transaction is responsible for allocating an executed trade.

A. Advice F–2

Currently, Advice F–2 states that it is the duty of the largest participant in an options transaction to both match and time stamp the order tickets involved. There is currently no specific provision for who allocates options trades among trade participants. The Phlx represents that the practice in most options crowds is that specialists announce trade splits by saying to the trading crowd, for example, "You did 10, you did 5," etc. This practice may differ, especially where a specialist unit is not involved in a trade, or where a great deal of trading and quote activity renders specialists allocating trades impractical. In these situations, Floor Brokers have assisted in allocating trades, along with performing their duty to match and submit the trade and ensure the best execution of orders.[4] The purpose of the proposed rule change to paragraph (a) of Advice F–2 is to assign the responsibility of properly allocating option trades to the largest participant (or seller)[5] involved in the trade, which normally will be the Floor Broker who represents the original order in the trading crowd. The Exchange asserts that the amendment will promote the original intent of Advice F–2 (*i.e.*, the facilitation of prompt and accurate trade reporting).[6] Paragraphs (b) concerning ticket preservation and (c) concerning member access to matched trades, of Advice F–2, remain unchanged.

B. Advice F–12

The purpose of the proposed rule change to Advice F–12 is to extend its requirements regarding how trades are allocated to the equity/index options floor. Currently, Advice F–12 only applies to foreign currency options trading. Specifically, Advice F–12 currently requires that foreign currency option trade participants: (a) must confirm and immediately inform the largest participant of their contra-side participation; (b) should not leave the crowd absent such confirmation; (c) should not submit tickets absent participation; and (d) must handle disputes properly. The Exchange additionally proposes that Advice F–12 is proposed to be amended to only detain in the crowd actual trade participants and simplify ticket submission requirements.

The Phlx believes that the proposed amendments to Advice F–12 will bolster its effectiveness in controlling the trade allocation process. Under the proposed amendments, no one who has participated in the trade would be allowed to leave the crowd until the level of his/her participation in the trades has been confirmed by the largest participant. Previously, this obligation also applied to those who *believed they may have* participated in a trade. This change is intended to require only those who actually participated in a trade to remain in the trading crowd to confirm their participation in the trade. The Phlx states that the language concerning belief was difficult to administer and did not capture violations necessary to improve the post-trade process.

Further, Advice F–12 currently provides that no person in the crowd shall submit a ticket for matching on a trade when that person has or should have grounds to believe that he is not due participation in the trade. Thus, a violation of Advice F–12 currently may result from submitting a ticket where no participation is due, even though the participant believed he/she participated. The Phlx asserts that by deleting the reference to "belief," the proposal is designed to simplify trade ticket submission, and as a result, establish the practice that a person who did not participate in a trade should not submit a ticket.

C. Minor Rule Plan

Violation of the new responsibility under Advice F–2 will be subject to the existing fine schedule accompanying Advice F–2. Advice F–12 currently contains a fine schedule, which is proposed to apply to the entire options floor. The proposal thus amends the Exchange's minor rule violation enforcement and reporting plan ("minor rule plan"),[7] by amending the text of

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the Commission has approved narrow-based indexes with similar minimum component standards. *See e.g.*, Securities Exchange Act Release Nos. 38143 (Jan. 8, 1997), 62 FR 2411 (Jan. 16, 1997) (permitted American Stock Exchange's "Tobacco Index" to initially consist of nine securities and thereafter consist of no fewer than nine securities); 37198 (May 10, 1996), 61 FR 25251 (May 20, 1996) (permitted Chicago Board Options Exchange's "PC Index" to initially consist of eight securities and thereafter consist of no fewer than eight securities); and 34345 (July 11, 1994), 59 FR 36245 (July 15, 1994) (permitted Exchange's "Phone Index" to initially consist of eight securities and thereafter consist of no fewer than eight securities).

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 39393 (December 3, 1997), 62 FR 65117 (December 10, 1997).

[4] *See* Phlx Rule 1063.

[5] The seller has the responsibility only when there are two parties to a trade. When there are multiple participants, the largest participant is responsible for allocating the trade.

[6] *See e.g.*, Securities Exchange Act Release No. 33512 (January 24, 1994) 59 FR 4759 (February 1, 1994).

[7] The Phlx's minor rule plan, codified in Phlx Rule 970, contains Advices, such as Advice F–2.

both Advices, as well as by extending the application of Advice F–12 to the equity/index options floor.

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] Specifically, the Commission believes that the proposal is consistent with: the Section 6(b)(5)[9] 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 interest; the Section 6(b)(6)[10] requirement that the rules of an exchange provide that its members be appropriately disciplined for violations of an exchange's rules and the Act; and the Section 6(b)(7)[11] requirement that the rules of an exchange provide a fair procedure for the disciplining of members.[12]

A. Advice F–2

Trade allocation includes the determination, based on existing rules, policies and practices, as to who is considered to be on a bid/offer, who participates in a trade and for what size. The Commission believes that permitting the largest participant, which normally will be the Floor Broker who represents the original order in the trading crowd, to allocate trade participation should render the process more efficient and therefore accelerate execution reporting.

As previously stated, existing Exchange rules do not clearly address the process of, or parties responsible for, ensuring proper options trade allocation. The Commission understands that Floor Brokers historically have assisted in options trade allocation, along with their duties to match and time stamp the trade and ensure the best execution of orders.[13] The Commission believes that is reasonable to assign the responsibility of trade allocation to the same individual that currently matches and time stamps the trade, namely the largest participant (or seller) to the trade. In this way, one person is performing all three functions. The Commission finds that extending this responsibility to the largest participant (or seller)[14] is a reasonable extension of the current requirements of Advice F–2.

B. Advice F–12

First, the Commission believes that the extension of Advice F–12 to equity/index options trading should improve the certainty of trade allocation and maintain order during the allocation process. The Commission also believes that such an extension is consistent with the original intent of Advice F–12 to facilitate the orderly separation of the option floor, especially for trades involving a number of market participants.[15]

Second, under the proposed amendments, no one who has participated in the trade would be allowed to leave the crowd until the level of his/her participation in the trade has been confirmed by the largest participant. Previously, this obligation also applied to those who *believed they may have* participated in a trade. As cited by the Commission in the original approval of Advice F–12, it is reasonable to require each participant to a large trade to take steps to ensure that the other parties to the transaction are aware of his or her participation.[16] The Commission believes the proposed amendment is consistent with this goal because it continues to facilitate the prompt determination of participation levels by removing confusion as to who actually participated in a trade.

Third, as previously stated, Advice F–12 also currently provides that no person in the crowd shall submit a ticket for matching on a trade when that person has or should have grounds to believe that he is not due participation in the trade. The Phlx asserts that by deleting the reference to "belief," the proposal is designed to simplify trade ticket submissions, and as a result, establish the practice that a person who did not participate in a trade should not submit a ticket. As previously stated, the original approval of Advice F–12 noted that it is reasonable to require trade participants to notify other parties of their participation levels and to resolve those levels at such time.[17] The Commission believes the proposed amendments are consistent with those goals because they continue to facilitate the prompt determination of participation levels.

C. Minor Rule Plan

The Exchange has represented that the proposed amendments to Advices F–2 and F–12 will be enforced under Phlx Rule 970, the minor rule plan. The Commission believes that an exchange's ability to effectively enforce compliance by its members and member organizations with Commission and Exchange rules is central to its self-regulatory function. The inclusion of a rule in an exchange's minor rule violation plan, therefore, should not be interpreted to mean that it is not an important rule. On the contrary, the Commission recognizes that the inclusion of minor violations of particular rules under a minor rule violation plan may make the exchange's disciplinary system more efficient in prosecuting more egregious or repeated violations of these rules, thereby furthering its mandate to protect investors and the public interest.

The Commission believes that amending the minor rule plan by changing the text of both Advices, as well as extending the application of Advice F–12 to the equity/index options floor, is consistent with the Act. The purpose of the minor rule plan is to provide a response to a violation of the Exchange's rules when a meaningful sanction is needed but when initiation of a disciplinary proceeding pursuant to Phlx Rule 960.2[18] is not suitable because such a proceeding would be more costly and time-consuming than would be warranted given the nature of the violation. Exchange Rule 970 provides for an appropriate response to minor violations of certain Exchange rules while preserving the due process rights of the party accused through specified required procedures.[19]

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with accompanying fine schedules. Rule 19d–1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(6).

[11] 15 U.S.C. 78f(b)(7).

[12] In approving this proposed rule change, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] *See* Phlx Rule 1063.

[14] *See* note 3, *supra*.

[15] Securities Exchange Act Release No. 29580 (August 16, 1991) 56 FR 41876 (August 23, 1991).

[16] *Id.*

[17] *Id.*

[18] Phlx Rule 960.2 governs the initiation of disciplinary proceedings by the Exchange for violations within the disciplinary jurisdiction of the Exchange.

[19] The minor rule plan permits any person to contest the Exchange's imposition of a fine through submission of a written answer, at which time: (1) the matter will be dismissed, (2) the alleged violator will pay the original fine or contest the matter before a hearing panel, (3) the fine will be modified and the alleged violator will pay the modified fine or contest the matter before a hearing panel or (4) the matter will become the subject of a formal disciplinary action and the issuance of a complaint will be authorized pursuant to Exchange Rule 960.2.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–Phlx–97–51) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11166 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39399; File No. SR–SCCP–98–01]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to an Increase In the Number of Directors

April 21, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on March 31, 1998, the Stock Clearing Corporation of Philadelphia ("SCCP") filed with the Securities and Exchange Commission ("Commission"), as amended on April 16, 1998 and April 21, 1998, the proposed rule change as described in Items I and II below, which items have been prepared primarily by SCCP. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change involves an amendment to SCCP's by-laws and to Section 6 of its articles of incorporation to increase the number of directors on its board from between 5 and 9 to between 5 and 23.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, SCCP 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. SCCP has prepared summaries, set forth in sections A, B, 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

The proposed rule change will amend SCCP's by-laws and articles of incorporation to increase the permitted size of the board from between 5 and 9 directors to between 5 and 23 directors. According to SCCP, all other provisions of the by-laws prescribing the composition of the board will remain unchanged. SCCP believes that this rule change is desirable due to the interest of the Board of Governors of the Philadelphia Stock Exchange ("Phlx") to more fully participate in the operation and control of SCCP.

SCCP also believes that a larger board will provide greater diversity and add policy making expertise to the process. In addition, SCCP believes that an SCCP board comprised of members from Phlx will allow greater coordination in scheduling meetings involving members from both the boards.[3]

SCCP believes that the proposed rule change provides for the fair representation of shareholders and participants in the selection of SCCP's directors and in the administration of SCCP's affairs and therefore that it is consistent with Section 17A(b)(3)(C) of the Act and the rules and regulations thereunder applicable to SCCP.[4]

(B) Self-Regulatory Organization's Statement on Burden on Competition

SCCP 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

SCCP has not solicited and does not intend to solicit comments on this proposed rule change SCCP has not received any unsolicited written comments from participants or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(C) provides that the rules of a clearing agency must provide for the fair representation of its shareholders or members and participants in the selection of directors. The Commission believes that the increase in the size of SCCP's board is consistent with the Act's fair representation requirements because the resized board should allow the board to more accurately reflect the controlling interest of the Phlx and its Board of Governors while still providing for fair representation of SCCP's participants.

SCCP has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in order that this increase be implemented at the meeting of the Phlx's board of directors scheduled for April 22, 1998. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice because such approval will allow the Phlx to increase SCCP's board size at its April 22, 1998, meeting.

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 also will be available for inspection and copying at the principal office of SCCP. All submissions should refer to File No. SR–SCCP–98–01 and should be submitted by May 19, 1998.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (File No. SR–SCCP–98–01) be and hereby is approved.

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[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by SCCP.

[3] Telephone conversation between Edith Hallahan, Counsel, SCCP, and Greg Dumark, Attorney, Division of Market Regulation, Commission (April 20, 1998).

[4] 15 U.S.C. 78q–1(b)(3)(C).

[5] 15 U.S.C. 78s(b)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–11212 Filed 4–27–98; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Surety Bond Guarantee Program Fees

AGENCY: Small Business Administration (SBA).

ACTION: Notice.

SUMMARY: This Notice establishes the fees payable by Principals and Sureties participating in SBA's Surety Bond Guarantee Program (13 CFR Part 115).

EFFECTIVE DATE: Effective July 1, 1998.

FOR FURTHER INFORMATION CONTACT: Barbara Brannan, Office of Surety Guarantees, (202) 205–6545.

SUPPLEMENTARY INFORMATION: In a **Federal Register** Notice published on February 29, 1996, SBA increased the Principal's and Surety's fees charged under the Surety Bond Guarantee (SBG) Program. The increases took effect on May 1, 1996. The Notice also indicated that SBA would continue to evaluate the performance of the SBG Program to determine whether the increases would remain necessary. See 61 FR 7848 (February 29, 1996). SBA has completed its review of the program and is setting the Principal's and Surety's fees in this **Federal Register** Notice. Capitalized terms used in this Notice have the meanings assigned such terms in 13 CFR 115.10.

Currently, the guarantee fees are: (1) The guarantee fee payable by Principals under 13 CFR 115.32(b) and 115.66 is $7.45 per thousand dollars of the Contract amount. (2) The guarantee fee payable by Prior Approval Sureties under 13 CFR 115.32(c) and by PSB Sureties under 13 CFR 115.66 is 23% of the bond Premium.

Beginning on July 1, 1998, the following guarantee fees will become effective: (1) The guarantee fee payable by Principals under 13 CFR 115.32(b) and 115.66 will be $6.00 per thousand dollars of the Contract amount. (2) The guarantee fee payable by Prior Approval Sureties under 13 CFR 115.32(c) and by PSB Sureties under 13 CFR 115.66 will be 20% of the bond Premium.

After a careful review of Program performance, SBA has determined that the guarantee fees can be returned to the amounts that were in effect prior to the increase of May 1, 1996. An analysis of the Program's revolving fund indicates that there are sufficient reserves to cover potential liabilities. Over the past several years, claims payments have decreased and claims recoveries have increased, resulting in sufficient reserves to cover unfunded Program liabilities. The fee decreases are not scheduled to go into effect until July 1, 1998, in order to allow sufficient time for Program participants to make any necessary adjustments to their accounting systems.

Any future changes in the fee amounts will be published by SBA in the form of a Notice in the **Federal Register**.

Information on other requirements concerning the fees may be found at 13 CFR 115.32 and 115.66.

Dated: April 21, 1998.

Robert J. Moffitt,

Associate Administrator, Office of Surety Guarantees.

[FR Doc. 98–11206 Filed 4–27–98; 8:45 am]

BILLING CODE 8025–01–P

[6] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Plenary Session of the Industry Sector & Industry Functional Advisory Committee (ISACs/IFACs)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of meeting.

SUMMARY: The Plenary Session of the Industry Sector & Industry Functional Advisory Committees (ISACs/IFACs) will hold a meeting on May 6, 1998 from 9:00 a.m. to 12:30 p.m. The meeting will be open to the public from 9:00 a.m. to 10:00 a.m. and closed to the public from 10:00 a.m. to 12:30 p.m.

DATES: The meeting is scheduled for May 6, 1998, unless otherwise notified.

ADDRESSES: The meeting will be held at the Department of Commerce Main Auditorium, located at 14th Street and Constitution Avenue, N.W., Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Brian Yates or Tamara Underwood, Department of Commerce, 14th St. and Constitution Ave., N.W., Washington, D.C. 20230, (202) 482–3268 or Bill Daley, Office of the United States Trade Representative, 600 17th St. N.W., Washington, D.C. 20508, (202) 395–6120.

SUPPLEMENTARY INFORMATION: The Plenary Session of the ISACs/IFACs will hold a meeting on May 6, 1998 from 9:00 a.m. to 12:30 p.m. The meeting will include a review and discussion of current issues which influence U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code and Executive Order 11846 of March 27, 1975, the Office of the U.S. Trade Representative has determined that part of this meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. During the discussion of such matters, the meeting will be closed to the public from 10:00 a.m. to 12:30 p.m. The meeting will be open to the public and press from 9:00 a.m. to 10:00 a.m. when other trade policy issues will be discussed. Attendance during this part of the meeting is for observation only. Individuals who are not members of the committees will not be invited to comment.

ADDITIONAL INFORMATION: Press wishing to attend should call the DOC Public Affairs office at (202) 482–3809 to register. **You must register to be granted access to the building, or have a DOC press pass.** Public wishing to attend should call the Trade Advisory Center of the U.S. Department of Commerce at (202) 482–3268 no later than May 4, 1998, in order to ensure access to the building. **Access will be denied without an RSVP to the Trade Advisory Center.**

Pate Felts,

Acting Assistant United States Trade Representative, Intergovernmental Affairs and Public Liaison.

[FR Doc. 98–11257 Filed 4–27–98; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week Ending April 17, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3737.

Date Filed: April 14, 1998.

Parties: Members of the International Air Transport Association.

Subject: PTC12 MATL–EUR 0020 dated March 24, 1998 Mid Atlantic-Europe Resolutions r1–32. PTC12

MATL–EUR 0023 dated April 7, 1998—Minutes. PTC12 MATL–EUR Fares 0007 dated April 9, 1998 Tables. PTC12 MATL–EUR 002 dated April 3, 1998-Correction. PTC12 MATL–EUR 0024 dated April 9, 1998. Intended effective date: June 1, 1998.

Docket Number: OST–98–3738.
Date Filed: April 14, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC2 Telex Mail Vote 931 (Reso 010e). Roll back Kuwait-Middle East fare increase r1. Intended effective date: April 22, 1998. PTC3 Telex Mail Vote 933 (Reso 010g) Introduce Osaka-Xiamen fares. Correction to Mail Vote—TD235. Intended effective date: July 20, 1998.

Docket Number: OST–98–3748.
Date Filed: April 16, 1998.
Parties: Members of the International Air Transport Association.
Subject: Telex COMP Mail Vote 924, Reso 010a Fares to/from Norway (excluding the U.S.) Telexes TW 904/910/920/925—Corrections. Intended effective date: April 27, 1998.

Docket Number: OST–98–3749.
Date Filed: April 16, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC2 EUR 0156 dated March 17, 1998. Mail Vote 921—Notes Regarding Within-Europe Fares Telexes TD 219/236/246 (attached to cover pleading). Corrections.
Intended effective date: May 1, 1998
r1–078q
r2–078y
r3–087m
r4–072y
r5–075y
r6–078q
r7–081y
r8–084y

Docket Number: OST–98–3750.
Date Filed: April 16, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC23 AFR–TC3 0042 dated March 25, 1998. Mail Vote 928—Reso 010c. Normal Fares Amended to Show Gov't-Approved Levels. Intended effective date: May 1, 1998.

Docket Number: OST–98–3751.
Date Filed: April 16, 1998.
Parties: Members of the International Air Transport Association.
Subject: Telex PTC12 Mail Vote 930 Reso 010d. Macedona/Russia/Georgia-South Atlantic fares, TE592/600—Amendments. Intended effective date: April 22, 1998.

Paulette V. Twine,
Federal Register Liaison.

[FR Doc. 98–11231 Filed 4–27–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending April 30, 1996

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–96–1327.
Date Filed: April 30, 1996.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: May 28, 1996.
Description: Application of Inter-Canadien 1991 Inc./Inter-Canadian (1991) Inc., pursuant to 49 U.S.C. 41301 and Subpart Q of the Regulations, for a foreign air carrier permit to provide those scheduled and charter foreign air transportation services available to Canadian carriers pursuant to the Air Transport Agreement between the Government of Canada and the Government of the United States.

Paulette V. Twine,
Federal Register Liaison.

[FR Doc. 98–11232 Filed 4–27–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending April 17, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–3742.
Date Filed: April 15, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: May 13, 1998.
Description: Application of American Airlines, Inc., pursuant to 49 U.S.C. 41108, applies for amendment of its certificate for Route 602 to add a new segment authorizing foreign air transportation of persons, property, and mail between any points in the United States directly and via intermediate points and any points in France to points in third countries.

Docket Number: OST–98–3758.
Date Filed: April 17, 1998.
Due Date for Answers, Conforming Applications, or Motions to Modify Scope: April 22, 1998.
Description: Application of Northwest Airlines, Inc., pursuant to 49 U.S.C. 41108 and 41102 and Subpart Q of the Department's Rules of Practice, requests issuance of a certificate of public convenience and necessity authorizing it to provide foreign air transportation of persons, property, and mail between any point in the United States directly and via intermediate points and any point in France and beyond France to points in third countries, except that it does not seek authority in the New York-Paris market. Northwest further requests authority to integrate this certificate authority with any other certificate or exemption authority that it holds to provide scheduled foreign air transportation, consistent with applicable agreements between the U. S. and foreign countries.

Paulette V. Twine,
Federal Register Liaison.

[FR Doc. 98–11233 Filed 4–27–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Jack Mc Namara Field, Crescent City, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Jack Mc Namara

Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before May 28, 1998.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Blvd., Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Karl Brown, County Engineer of the County of Del Norte, at the following address: 700 Fifth Street, Crescent City, CA 95531.

All carriers and foreign air carriers may submit copies of written comments previously provided to the County of Del Norte under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Maryls Vandervelde, Airports Program Specialist, Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Jack Mc Namara Field under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158). On March 26, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Del Norte was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 26, 1998. The following is a brief overview of application No. 98–01–C–00–CEC.

Level of the proposed PFC: $3.00.

Proposed charge effective date: June 1, 1998.

Proposed charge expiration date: June 30, 2001.

Total estimated PFC revenue: $61,430.

Brief description of proposed projects:

Airport Sign System; Obstruction Removal; Update Airfield Marking; Rehabilitate Emergency Generator System; Part 139—Certification & Safety Compliance; Airport Rotating Beacon and Tower; Site Development and construction of access taxiways—Phase 1; and Terminal Apron Expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports office located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Lawndale, CA 90261.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Del Norte.

Issued in Hawthorne, Calif., on April 16, 1998.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 98–11234 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA–98–3766]

Reports, Forms, and Recordkeeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes two collections of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before June 29, 1998.

ADDRESSES: Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL–401, 400 Seventh Street, S.W., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Michael Robinson, NHTSA Information Collection Clearance Officer, 400 Seventh Street, S.W., Room 6123, NAD–40, Washington, D.C. 20590. Mr. Robinson's telephone number is (202) 366–9456. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How to minimize the burden of the collection of information on those who are to respond, including 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.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

Odometer Disclosure Statement

Title: 49 CFR Part 580, Odometer Disclosure Statement.

OMB Control Number: 2127–0047.

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.

Number of Annual Respondents: Approximately 130,000,000.

Record Retention

Title: 49 CFR Part 576, Record Retention.

OMB Control Number: 2127–0042.

Affected Public: Business or other for-profit.

Abstract: Under 49 U.S.C. Section 30166(e), NHTSA "reasonably may require a manufacturer of a motor vehicle or motor vehicle equipment to keep records, and a manufacturer, distributor, or dealer to make reports, to enable [NHTSA] to decide whether the manufacturer, distributor or dealer has complied or is complying with this chapter or a regulation prescribed under this chapter."

49 U.S.C. Section 30118(c) requires manufacturers to notify NHTSA and owners, purchasers, and dealers if the manufacturer (1) "learns" that any vehicle or equipment manufactured by it contains a defect and decides in good faith that the defect relates to motor vehicle safety, or (2) "decides in good faith" that the vehicle or equipment does not comply with an applicable Federal motor vehicle safety standard. The only way for the agency to decide if and when a manufacturer "learned" of a safety-related defect or "decided in good faith" that some products did not comply with an applicable Federal motor vehicle safety standard is for the agency to have access to the information available to the manufacturer.

Further, 49 U.S.C. Section 30118(a) requires NHTSA to immediately notify a manufacturer if the agency determines that some of the manufacturer's products either do not comply with an applicable Federal motor vehicle safety standard or contain a safety-related defect, and provide the manufacturer with all the information on which the determination is based. Agency determinations of noncompliance are generally based upon actual testing conducted by or for the agency. However, defect determinations depend heavily upon review of consumer complaints submitted to the manufacturer, communications between manufacturers and suppliers, and the manufacturers' analyses of field problems and/or warranty claims. Without these complaints and manufacturer documents, NHTSA would have only limited access to information about vehicle or equipment problems.

To ensure that NHTSA will have access to this type of information, the agency exercised the authority granted in 49 U.S.C. Section 30166(e) and promulgated 49 CFR Part 576, Record Retention. This regulation requires manufacturers of motor vehicles to retain one copy of all records that contain information concerning malfunctions that may be related to motor vehicle safety, for a period of five years after the record is generated or acquired by the manufacturer.

Estimated Annual Burden: 40,000 hours.

Number of Respondents: At least 1,000 vehicle manufacturers of all types.

Authority: 49 U.S.C. 30166, 49 U.S.C. Chapter 327; delegations of authority at CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Safety Assurance.

[FR Doc. 98–11180 Filed 4–27–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–16: OTS No. 1121]

Peoples Building and Loan Association, F.A., Tell City, Indiana; Approval of Conversion Application

Notice is hereby given that on April 16, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Peoples Building and Loan Association, F.A., Tell City, Indiana, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: April 22, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–11160 Filed 4–27–98; 8:45 am]

BILLING CODE 6720–01–M

Corrections

Federal Register
Vol. 63, No. 81
Tuesday, April 28, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 1, 25, 91, 121, and 135

[Docket No. 25471; Amendment Nos. 1–48, 25–92, 91–256, 121–268, 135–71]

RIN 2120–AB17

Improved Standards for Determining Rejected Takeoff and Landing Performance

Correction

In rule document 98–3898 beginning on page 8298, in the issue of Wednesday, February 18, 1998, make the following corrections:

1. On page 8298, in the third column, in the second paragraph, in the first line, "The" should read "To".

2. On page 8299, in the third column, in the second full paragraph, in the 12th line from the bottom, "rejected" should read "reject".

3. On page 8303, in the second column, in the second full paragraph, in the fifth line from the bottom, "disagree" should read "disagrees".

4. On the same page, in the third column, in the first full paragraph, in the 13th line from the bottom, "uaffected" should read "unaffected".

5. On page 8307, in the first column, in the first full paragraph, in the 17th line from the bottom, after "for" insert "the".

6. On page 8309, in the second column, under *Depth of Water on the Runway*, in the second paragraph, in the second line from the bottom, "ensuring" should read "ensuing".

7. On the same page, in the third column, in the third full paragraph, in the eighth line from the bottom, "test" should read "tests".

8. On the same page, in the same column, in the last paragraph, in the last line, "titled" should read "title".

9. On page 8310, in the second column, in the first full paragraph, in the tenth line from the bottom, "Typically" should read "(Typically".

10. On page 8312, in the first column, in the last paragraph, in the third line from the bottom, "trust" should read "thrust".

11. On page 8313, in the first column, in the second full paragraph, in the second line, "§ § 25.13" should read "§ § 25.113".

12. On page 8315, in the first column, in the seventh line, "standard" should read "standards".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. 27358; Amdt. No. 25–96]

RIN 2120–AD42

Fatigue Evaluation of Structure

Correction

In rule document 98–8379 beginning on page 15708, in the issue of Tuesday, March 31, 1998, make the following corrections:

1. On page 15708, in the first column, under **Availability of Final Rules**, in the second paragraph, in the fourth line, "www.access.gop.gov/su_-docs" should read "www.access.gpo.gov/su_docs".

2. On page 15709, in the second column, in the second paragraph, in the 14th line, "working" should read "wording".

3. On the same page, in the third column, in the second paragraph, in the tenth line, "hat" should read "that".

4. On page 15710, in the third column, in the second full paragraph, in the eighth line, "there" should read "these".

5. On page 15712, in the first column, in the second line from the bottom, "for" should read "For".

6. On the same page, in the third column, in the last line, "of" should read "if".

7. On page 15713, in the first column, in the third full paragraph, in the sixth line, "and" should read "an".

§ 25.571 [Corrected]

8. On page 15714, in the third column, in § 25.571(b), in the 21st line, "competing" should read "completing".

BILLING CODE 1505-01-D

federal register

Tuesday
April 28, 1998

Part II

Department of Commerce

National Telecommunications and Information Administration

Telecommunications and Information Infrastructure Assistance Program (TIIAP); Notice

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

[Docket Number: 970103002–8089–04]

RIN 0660–ZA02

Telecommunications and Information Infrastructure Assistance Program (TIIAP)

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice of Applications Received.

SUMMARY: On January 5, 1998, in the **Federal Register** (62 FR 358), the National Telecommunications and Information Administration (NTIA) announced the availability of funds for the Telecommunications and Information Infrastructure Assistance Program (TIIAP) to promote the widespread use of advanced telecommunications and information technologies in the public and non-profit sectors. By providing matching grants for information infrastructure projects, this program will help develop a nationwide, interactive, multimedia information infrastructure that is accessible to all citizens, in rural as well as urban areas. This Notice announces the applications that were received in response to the January 5, 1998, solicitation.

FOR FURTHER INFORMATION CONTACT: Stephen J. Downs, Director, Telecommunications and Information Infrastructure Assistance Program, Telephone: 202–482–2048. Fax: 202–501–5136. Email: tiiap@ntia.doc.gov.

SUPPLEMENTARY INFORMATION:

Applications Received

In all, 757 applications were received for all fifty states, the District of Columbia, Guam, the Marianas Protectorate, the Marshall Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The total amount requested by the applications is $323 million.

Notice is hereby given that the program received applications from the following organizations. The list includes all applications received. Identification of any application only indicates its receipt. It does not indicate that it has been accepted for review, that it has been determined to be eligible for funding, or that an application will receive an award.

Alabama

980103 Dallas County School System (Selma)
980119 University of Alabama at Birmingham (Birmingham)
980210 Oakwood College (Huntsville)
980244 Poarch Creek Indians (Atmore)
980341 Cooper Green Hospital (Birmingham)
980478 Birmingham Civil Rights Institute (Birmingham)
980640 Reverend Peter James and Florence Lee Kirksey Foundation, Inc. (Boligee)
980719 International Telecomputing Consortium (Newbern)

Alaska

980026 Alaska Housing Finance Corporation (Anchorage)
980095 Fairnet, Inc. (Fairbanks)
980116 University of Alaska at Fairbanks (Fairbanks)
980207 Galena City School District (Galena)
980212 Alaska Pacific University (Anchorage)
980265 Chignik Lagoon Village Council (Chignik Lagoon)
980375 South East Regional Resource Center (Juneau)
980390 University of Alaska at Anchorage (Anchorage)
980419 Ozarka Technical College (Melbourne)
980462 Cook Inlet Tribal Council, Inc. (Anchorage)
980567 Fairbanks Native Association (Fairbanks)
980600 United Way of Anchorage (Anchorage)

Arizona

980032 Indian Oasis-Baboquivari Unified School District No. 40 (Sells)
980127 PPEP Micro Business Housing Development Corporation (Tucson)
980143 Pinetop Lakeside Police Department (Lakeside)
980160 Southern Arizona Legal Aid, Inc. (Tucson)
980288 Border Region Business Incubator, Inc. (Bisbee)
980300 Sequoia School (Mesa)
980348 Arizona State University at Tempe (Tempe)
980393 Maricopa Association of Governments (Phoenix)
980414 Yavapai County Community College District (Prescott)
980577 Pima County Community College (Tucson)

Arkansas

980076 Mid-South Community College (West Memphis)
980121 Arkansas River Valley Regional Library System at Little Rock (Dardanelle)
980175 University of Arkansas at Little Rock (Little Rock)
980217 Jones Center for Families (Springdale)
980324 Harvey and Bernice Jones Center for Families (Springdale)
980325 University of Arkansas for Medical Sciences (Little Rock)
980327 Pulaski County, Arkansas (Little Rock)
980387 Arkansas Educational Television Commission (Conway)

980692 University of Arkansas at Fayetteville (Fayetteville)
980708 University of Arkansas at Little Rock (Little Rock)
980747 United Methodist Homeless Housing Mission (Hot Springs)
980757 City of Little Rock (Little Rock)

California

980016 Western Identification Network, Inc. (Sacramento)
980020 City of Richmond (Richmond)
980022 Desert Sands Unified School District (Riverside)
980035 Saint Vincent de Paul Village, Inc. (San Diego)
980044 California Department of Justice (Sacramento)
980070 County of Los Angeles (Monterey Park)
980075 Friends of Recreation and Parks (San Francisco)
980079 Labor's Community Service Agency (San Diego)
980081 San Gabriel Valley Council of Governments (Los Angeles)
980093 City of Long Beach (Long Beach)
980102 Linking Education and Economic Development (Sacramento)
980106 Mendocino County Office of Education (Ukiah)
980109 California State University at Turlock (Turlock)
980114 City of Turlock, California (Turlock)
980133 University of Southern California (Los Angeles)
980135 County of San Diego (San Diego)
980150 The Galef Institute (Los Angeles)
980153 City of San Diego (San Diego)
980157 California State Rural Health Association (Arcata)
980158 Hartnell Community College District (Salinas)
980161 Olive View-UCLA Medical Center (Sylmar)
980187 City of San Jose (San Jose)
980225 San Joaquin Hospital (Bakersfield)
980232 County of Monterey, California (Salinas)
980237 City of Fresno (Fresno)
980239 San Fernando Valley Neighborhood Legal Services, Inc. (Los Angeles)
980250 Latino Issues Forum (San Francisco)
980330 Public Interest Clearinghouse (San Francisco)
980332 Santa Cruz County, California (Santa Cruz)
980338 Community Health Foundation of East Los Angeles (Los Angeles)
980344 City of Ridgecrest, California (Ridgecrest)
980347 City of Sunnyvale, California (Sunnyvale)
980363 New Haven Unified School District (Union City)
980365 Association of Bay Area Governments (Oakland)
980376 San Francisco Department of Public Health (San Francisco)
980384 Bay Area School-to-Career Action Network (San Rafael)
980395 Youth Policy Institute (Manhattan Beach)
980397 Ahmium Education, Inc. (San Jacinto)
980402 San Francisco Council on Homelessness (San Francisco)
980416 Berkeley Community Fund (Berkeley)
980445 Information and Referral Federation of Los Angeles County, Inc. (El Monte)
980447 Los Angeles Conservation Corps (Los Angeles)
980458 Marin County, California (San Rafael)
980475 University of California at Los Angeles (Los Angeles)
980487 Inspire Foundation (Los Angeles)
980509 Housing Authority of the County of Marin (San Rafael)
980526 Marin City Project (Marin City)
980545 Local Economic Assistance Program/L.E.A.P. (Oakland)
980549 University of Southern California (Los Angeles)
980554 University of Southern California (Los Angeles)
980556 Watts Labor Community Action Committee (Los Angeles)
980559 Peninsula Library System (San Mateo)
980569 East Side Union High School District (San Jose)
980588 Regents of the University of California (Berkeley)
980617 Golden Gate University (San Francisco)
980626 University of California at Berkeley (Berkeley)
980642 National Homes Trust, Inc. (Los Angeles)
980645 California Institute of Technology (Pasadena)
980648 Community Partners (Los Angeles)
980675 Orange County Department of Education (Fountain Valley)
980676 California State University at Los Angeles (Los Angeles)
980681 Center for Training and Careers (San Jose)
980690 SLONET Regional Information Access (San Luis Obispo)

980695 Chabot Observatory and Science Center (Oakland)
980709 Hermandad Mexicana Nacional (Santa Ana)
980714 Alice Cortez Bail Bonds (San Jose)
980732 Bay Area Shared Information Consortium (Mountain View)
980738 City of San Jacinto, California (San Jacinto)
980739 Visible Light, Inc. (Buellton)

Colorado

980010 Board of Weld County Commissioners (Greeley)
980072 Association for Community Networking (Telluride)
980123 Mile High United Way (Denver)
980159 University of Colorado Health Sciences Center (Denver)
980205 University of Colorado at Denver (Denver)
980241 Newsed Community Development Corporation (Denver)
980289 Arts and Humanities Assembly of Boulder County (Boulder)
980302 Colorado Alliance of Research Libraries (Denver)
980317 Western States Arts Federation (Denver)
980518 University of Colorado at Boulder (Boulder)
980547 City of Denver Juvenile Court (Denver)
980558 City and County of Denver (Denver)
980570 Western State College (Gunnison)
980603 Peer Assistance Services, Inc. (Denver)
980745 Poudre School District (Fort Collins)

Connecticut

980053 Bloomfield Board of Education (Bloomfield)
980342 Capitol Region Education Council (Hartford)
980437 National Cristina Foundation (Stamford)
980621 Talcott Mountain Science Center for Student Involvement, Inc. (Avon)
980702 Housing Authority of the City of Norwalk (South Norwalk)

Delaware

980073 Alfred I. duPont Hospital for Children (Wilmington)
980500 Delaware Technical and Community College (Wilmington)
980510 Delaware Criminal Justice Information System (Dover)
980606 Jewish Federation of Delaware, Inc. (Wilmington)
980763 Delaware Association for Home and Community Care (Montchanin)

District of Columbia

980473 Catholic University of America (Washington)
980562 Rural Coalition/Caolicion Rural (Washington)
980573 Very Special Arts (Washington)
980578 Development Corporation of Columbia Heights (Washington)
980587 Spanish Catholic Center (Washington)
980589 Norman N. Johnson IDEA Public Charter School (Washington)
980594 Community Building Group, Ltd. (Washington)
980601 National Puerto Rican Coalition, Inc. (Washington)
980689 American Symphony Orchestra League (Washington)
980697 ASPIRA Association, Inc. (Washington)
980698 Children's Hospital (Washington)
980707 College of Engineering, Architecture and Design (Washington)
980711 Howard University (Washington)
980741 Health Quest Foundation (Washington)
980742 Faith Health Association, Inc. (Washington)

Federated States of Micronesia

980115 Micronesia Human Resource Development Center (Kolonia)

Florida

980033 University of South Florida (Tampa)
980034 Health Choice Network, Inc. (Miami)
980036 Martin County School District (Stuart)
980098 Florida State University at Tallahassee (Tallahassee)
980104 Town of Welaka, Florida (Welaka)
980118 Escambia County, Florida (Pensacola)
980148 Able Trust (Tallahassee)
980172 City of Leesburg, Florida (Leesburg)
980206 Naples Free-Net (Naples)
980281 Helpanswers Educational Foundation (Naples)

980285 Riverview High School (Sarasota)
980298 Administrative Office of the Courts (Tampa)
980309 Okaloosa County, Florida (Shalimar)
980315 Goodwill Industries of Big Bend, Inc. (Tallahassee)
980316 Big Bend Rural Health Network (Perry)
980322 Florida State University at Tallahassee (Tallahassee)
980339 City of Hallandale, Florida (Hallandale)
980392 St. Lucie County Board of County Commissioners (Fort Pierce)
980422 Seminole Tribe of Florida (Hollywood)
980454 Horizon Housing Foundation, Inc. (Fort Lauderdale)
980467 Florida Rural Legal Services, Inc. (Lakeland)
980477 City of Deerfield Beach, Florida (Deerfield Beach)
980521 Daytona Beach Community College (Daytona Beach)
980563 Lee County, Florida (Fort Meyers)
980602 Coordinating Council of Broward (Fort Lauderdale)
980607 Florida Conference of Seventh-Day Adventists (Winter Park)
980618 Tallahassee Community College (Tallahassee)
980624 Children's Home Society of Florida, Inc. (Miami)
980673 Boynton Beach City Library (Boynton Beach)
980674 City of Clearwater, Florida (Clearwater)
980696 City of Tampa (Tampa)
980723 Duval County Public Schools (Jacksonville)

Georgia

980107 Peach County Public Libraries (Fort Valley)
980197 100 Black Men of America, Inc. (Atlanta)
980270 Coastal Georgia Historical Society (St. Simmons Island)
980303 City of Valdosta, Georgia (Valdosta)
980409 City of Atlanta (Atlanta)
980459 Gwinnett County Board of Commissioners (Lawrenceville)
980512 Southern Regional Education Board (Atlanta)
980516 Atlanta-Fulton County Zoo, Inc. (Atlanta)
980539 Georgia Environmental Organization (Smyrna)
980543 Metro Atlanta Task Force for the Homeless, Inc. (Atlanta)
980592 Hands, Feet and Mouth, Inc. (Smyrna)
980593 Victory Community Development Corporation (Atlanta)
980614 Crisp County E–911 (Cordele)
980654 Clark Atlanta University (Atlanta)
980684 Morehouse School of Medicine (Atlanta)
980760 United Way of Metropolitan Atlanta, Inc. (Atlanta)

Guam

980759 Guam Community College (Mangilao)

Hawaii

980113 City and County of Honolulu (Honolulu)
980180 Hawaii Lawyers Care (Honolulu)
980284 State of Hawaii (Honolulu)
980354 State of Hawaii (Honolulu)
980358 Papaikou United Network (PUN) (Papaikou)
980411 University of Hawaii (Honolulu)
980415 Kapi'olani Medical Center for Women and Children (Honolulu)
980423 Saint Frances Healthcare System of Hawaii (Honolulu)
980499 Chaminade University of Honolulu (Honolulu)
980659 Hawaii Lynx (Kahuku)
980700 University of Hawaii (Honolulu)
980751 Oahu Economic Development Board (Honolulu)

Idaho

980064 Fort Lemhi Indian Community (Fort Hall)

Illinois

980074 University of Chicago (Chicago)
980088 Illinois Primary Health Care Association (Springfield)
980174 Calumet Region Public Safety Network (South Holland)
980182 Memorial Health System (Springfield)
980229 Community Career and Technology Center, Inc. (Peoria)
980246 Hamilton-Jefferson Counties Educational Services Region (Mount Vernon)
980252 Middle Passages, Inc. (Chicago)

980299 Sinai Family Health Services (Chicago)
980349 City of Rockford, Illinois (Rockford)
980401 Lester and Rosalie Anixter Center (Chicago)
980413 State of Illinois (Springfield)
980464 Boys and Girls Clubs of Chicago (Chicago)
980465 Profamily Social Service Connections, Inc. (Chicago)
980540 Neighborhood Learning Networks (Chicago)
980553 City of Chicago (Chicago)
980609 Parkland College (Champaign)
980616 Future Teachers of Chicago (Chicago)
980668 West Suburban Hospital Medical Center (Oak Park)
980669 City of Chicago (Chicago)
980720 Cencom E9–1–1 Communications Center (Round Lake Beach)

Indiana

980059 Indiana Youth Services Association, Inc. (Indianapolis)
980152 OMNI Centre for Public Media, Inc. (Carmel)
980215 Indiana University (Indianapolis)
980260 City of Indianapolis (Indianapolis)
980428 Indiana University at Bloomington (Bloomington)
980623 Hancock County Community Network, Inc. (Greenfield)
980653 Indiana State University at Terre Haute (Terre Haute)
980680 Intelenet Commission (Indianapolis)
980756 Lake County Public Library (Merrillville)

Iowa

980154 Eldora-New Providence Community School District (Eldora)
980163 Independence Municipal Utilities (Independence)
980200 Butler County, Iowa (Allison)
980240 Grundy Center Municipal Utilities (Grundy Center)
980350 Iowa Valley Community College District (Marshalltown)
980451 Metro Area Housing Program, Inc. (Cedar Rapids)
980620 City of Iowa City (Iowa City)
980632 Northeast Iowa Community College (Peosta)

Kansas

980009 Southeast Kansas Education Service Center (Girard)
980011 Geary County, Kansas (Junction City)
980043 Saline County, Kansas (Saline)
980099 Kansas State University at Manhattan (Manhattan)
980140 University of Kansas (Kansas City)
980147 Hays Medical Center (Hays)
980234 Garden City Information Technologies Cooperative, Inc. (Garden City)
980307 Community Memorial Healthcare, Inc. (Marysville)
980381 City of Junction City, Kansas (Junction City)
980436 United Tribe of Shawnee Indians (De Soto)
980450 Emporia State University (Emporia)
980522 Emporia State University (Emporia)
980557 North Central Kansas Education Service Center (Concordia)
980685 University of Kansas Medical Center (Kansas City)
980729 Northeast Kansas School-to-Work Consortium, Inc. (Highland)

Kentucky

980001 Kentucky River Foothills Development Council, Inc. (Richmond)
980130 Woodford County Public Schools (Versailles)
980165 Kentucky State Police (Frankfort)
980219 Fayette County Public Schools (Lexington)
980235 Butler County Fiscal Court (Morgantown)
980245 Trover Foundation (Madisonville)
980295 Western Kentucky University (Bowling Green)
980491 City of Shelbyville, Kentucky (Shelbyville)
980493 Kentucky Historical Society (Frankfort)
980501 Economic Development, Inc. (Berea)
980536 The Center for Rural Development (Somerset)
980537 University of Kentucky Research Foundation (Lexington)
980716 Jefferson County Fiscal Court (Louisville County)

Louisiana

980122 Beauregard Parish Library (Deridder)

980125 City of Shreveport, Louisiana (Shreveport)
980186 South Central Planning and Development Commission (Thibodaux)
980314 Ben D. Johnson Educational Foundation, Inc. (Natchitoches)
980380 Nicholls State University (Thibodaux)
980448 Jefferson Parish Government (Harahan)
980502 Advocates for Science and Math Education (New Orleans)
980503 St. Tammany Parish (Covington)
980639 Macon Ridge Economic Development Region (Ferriday)
980656 Parish of Ascension (Gonzales)

Maine

980003 Maine Municipal Association (Augusta)
980065 City of Augusta Board of Trade (Augusta)
980199 Regional Medical Center at Lubec (Lubec)
980482 ECO 2000 (Frenchville)

Marianas Protectorate

980542 Commonwealth Utilities Corporation (Saipan)

Maryland

980306 Somerset County Economic Development Commission (Princess Anne)
980461 Soundprint Metro Center, Inc. (Laurel)
980463 University of Maryland at Baltimore (Baltimore)
980466 Family League of Baltimore City, Inc. (Baltimore)
980470 Network of Community Resources, Inc. (Rockville)
980527 Baltimore Metropolitan Council, Inc. (Baltimore)
980528 Institute for Family-Centered Care, Inc. (Bethesda)
980530 Foundation for the Future of Youth (Rockville)
980531 Prince George's County (Upper Marlboro)
980564 Prince George's County (Upper Marlboro)
980583 Maryland Works, Inc. (Columbia)
980584 Baltimore Urban Leadership Foundation (Baltimore)
980591 Greater Oakland Business Association (Oakland)
980599 Baltimore City Public School System (Baltimore)
980687 Citizens Planning and Housing Association (Baltimore)
980743 City of Takoma Park, Maryland (Takoma Park)

Massachusetts

980006 The New England College of Optometry (Boston)
980018 Mount Wachusett Community College (Gardner)
980024 Visiting Nurse Association of Boston (Boston)
980030 Partners for a Healthier Community, Inc. (Springfield)
980120 Mystic Valley Development Commission (Malden)
980134 WGBH Educational Foundation (Boston)
980166 Corporation for Business, Work, and Learning (Charlestown)
980266 Merrimack College (Lawrence)
980296 Haitian American Public Health Initiatives (Mattapan)
980431 Regional Employment Board of Hampden County, Inc. (Springfield)
980432 Greater Boston Morehouse College Alumni Association (Cambridge)
980446 Jewish Vocational Services (Boston)
980505 Education Development Center, Inc. (Newton)
980572 Greater Holyoke Foundation, Inc. (Holyoke)
980638 Edgewater/Pynchon Terrace Association (Springfield)
980722 Tufts University (Boston)
980755 Work Group for Computerization of Behavioral Health and Human Services Records (Cambridge)

Michigan

980017 Western Michigan University (Kalamazoo)
980021 Washtenaw County Regional Dispatch Authority (Ann Arbor)
980057 GrandNet (Grand Rapids)
980087 Madonna University (Livonia)
980105 University of Michigan at Ann Arbor (Ann Arbor)
980132 Phoenix Place, Inc. (Washington)
980155 Alpena County, Michigan (Alpena)
980156 City of Lansing (Lansing)
980208 Eastern Michigan University (Ypsilanti)
980236 Traverse Bay Area Intermediate School District (Traverse City)
980259 Northern Economic Initiatives Corporation (Marquette)
980264 Grand Traverse County (Traverse City)

980269 Michigan State Bar Foundation (Lansing)
980308 City of Allen Park, Michigan (Allen Park)
980313 Hills and Dales General Hospital (Cass City)
980318 Wayne State University (Detroit)
980484 Mott Community College (Flint)
980534 Leelanau County, Michigan (Leland)
980619 Upper Peninsula Children's Museum, Inc. (Marquette)
980637 Detroit Institute of Arts Founders Society (Detroit)
980646 School District of the City of Detroit (Detroit)
980647 Manistee Universal Free-Net (Manistee)
980717 Focus: HOPE (Detroit)
980736 Youth Links (Detroit)

Minnesota

980041 Independent School District No. 196 (Rosemount)
980058 University of Minnesota (Minneapolis)
980117 West Central Minnesota Educational Television (Appleton)
980142 First Call Minnesota (Fergus Falls)
980144 Housing and Redevelopment Authority of HBG Minnesota (Hibbing)
980222 The Cathedral of the Immaculate Conception (Crookston)
980255 Southeast Service Cooperative (Rochester)
980262 United Way of Minneapolis Area (Minneapolis)
980356 City of Minneapolis (Minneapolis)
980385 Office of Strategic and Long Range Planning (St. Paul)
980398 Red Lake Band of Chippewa Indians (Red Lake)
980400 South Hennepin Regional Planning Agency (Edina)
980408 Hennepin County, Minnesota (Minneapolis)
980438 North Memorial Health Care (Robbinsdale)
980488 City of Eagan, Minnesota (Eagan)
980551 Migizi Communications, Inc. (Minneapolis)
980575 Cooperative Resources, Inc. (Fergus Falls)
980655 Southeastern Minnesota Private Industry Council, Inc. (Rocherster)
980663 Immanuel-St. Joseph's Hospital of Mankato, Inc. (Mankato)
980665 North side Economic Development Council (Minneapolis)
980679 City of Minneapolis (Minneapolis)
980715 Health Partners Research Foundation (Minneapolis)
980748 Minnesota Center for the Book (St. Paul)

Mississippi

980054 Department of Marine Resources (Biloxi)
980173 Oxford School District (Oxford)
980224 Columbus-Lowndes Economic Development Association (Columbus)
980280 Institution of Higher Learning (Jackson)
980282 Jackson State University (Jackson)
980343 Mississippi State University (Mississippi State)
980366 Tegal College (Tegal)
980485 North Mississippi Health Services, Inc. (Tupelo)
980576 Foundation for Educational Alternatives in the Rural South (Macon)
980660 Mississippi Action for Community Education, Inc. (Greenville)
980764 Crystal Springs Police Department (Crystal Springs)

Missouri

980002 Office of State Courts Administrator (Jefferson City)
980049 Children's Foundation of Mid-America, Inc. (St. Louis)
980067 Livingston County Commission (Chillicothe)
980185 City of Town and Country (St. Louis)
980293 Boone County, Missouri (Columbia)
980368 St. Louis Development Corporation (St. Louis)
980396 Boone Hospital Center (Columbia)
980420 Public Television 19, Inc. (Kansas City)
980424 Logan College of Chiropractic (Chesterfield)
980468 Kansas City Neighborhood Alliance (Kansas City)
980514 St. Louis Community College (St. Louis)
980608 University of Missouri at St. Louis (St. Louis)
980610 Kansas City School District (Kansas City)
980627 Bothwell Regional Health Center (Sedalia)

Montana

980063 Beaverhead County, Montana (Dillon)

980176 University of Montana at Missoula (Missoula)
980189 Little Big Horn College (Billings)
980254 Rocky Mountain College (Billings)
980412 Cascade County Historical Society (Great Falls)
980441 Critical Illness and Trauma Foundation, Inc. (Bozeman)
980750 Lincoln County Economic Development Council (Libby)

Nebraska

980323 Applied Information Management Institute (Omaha)
980440 Saint Elizabeth Community Health Center (Lincoln)

Nevada

980038 University of Nevada at Reno (Reno)
980371 Nevada Rural Hospital Project Foundation (Reno)
980386 Saint Mary's Foundation (Reno)
980733 City of Las Vegas (Las Vegas)

New Hampshire

980012 City of Rochester (Rochester)
980198 Monadnock United Way (Keene)
980383 Manufacturing Extension Partnership of New Hampshire, Inc. (Nashua)

New Jersey

980008 New Jersey Head Start Association (Trenton)
980015 Borough of Paramus (Paramus)
980092 Rutgers University (Piscataway)
980096 Prime Care, Inc. (Sparta)
980184 City of Trenton (Trenton)
980193 Rutgers State University (Piscataway)
980214 United Way of Bergen County (Oradell)
980267 Cumberland County College (Vineland)
980278 Visiting Nurse Association of Sussex County (Sparta)
980326 New Jersey Transit Corporation (Newark)
980335 Union County College (Cranford)
980417 Manavi (Union City)
980418 City of Camden (Camden)
980457 Middlesex County, New Jersey (New Brunswick)
980460 Recording for the Blind and Dyslexic (Princeton)
980481 New Jersey Public Broadcasting Authority (Trenton)
980507 Moorestown Township Public Schools (Burlington)
980541 Newark Emergency Services for Families, Inc. (Newark)
980566 Hunterdon Central Regional High School (Flemington)
980581 City of Vineland, New Jersey (Vineland)
980641 Lambertville Public School District (Lambertville)
980662 InfoShare (Egg Harbor Township)
980677 Sickle Cell Anemia and Charity, Inc. (Trenton)
980744 Hanover Township (Whipping)
980761 Chesilhurst Coalition for Youth and Family Development (Chesilhurst)

New Mexico

980004 Self Reliance Foundation (Santa Fe)
980048 San Juan College (Farmington)
980050 City of Las Vegas (Las Vegas)
980051 Central Consolidated School District No. 22 (Shiprock)
980080 New Mexico Health Policy Commission (Santa Fe)
980273 Central Consolidated School District No. 22 (Shiprock)
980320 National Indian Telecommunications Institute (Santa Fe)
980377 City of Las Cruces (Las Cruces)
980429 Arts New Mexico (Santa Fe)
980546 Museum of New Mexico Foundation (Santa Fe)
980633 Northern New Mexico Network for Rural Education (Santa Fe)

New York

980039 Coalition for the Homeless (New York)
980040 Public Utility Law Project of New York, Inc. (Albany)
980042 Union University (Albany)
980066 Monroe County, New York (Rochester)
980082 Chemung County, New York (Elmira)
980084 Westchester County (White Plains)

980085 Fund for Aging Services (New York)
980097 City of New York (New York)
980129 City of Elmira, New York (Elmira)
980179 Westchester County (White Plains)
980183 Forest Hills Community House, Inc. (Forest Hills)
980202 Research Foundation of CUNY (New York)
980230 M-ARK Project, Inc. (Margaretville)
980238 Bronx Information Network, Inc. (Bronx)
980256 Community School District 13 (Brooklyn)
980271 New York City Department of Health (New York)
980275 Madison-Oneida Board of Cooperative Educational Services (Verona)
980276 Association of Art Museum Directors Educational Foundation, Inc. (New York)
980279 City of Syracuse (Syracuse)
980283 Wyoming County Community Action, Inc. (Silver Springs)
980291 Chautauqua County, New York (Mayville)
980292 Museum for African Art (New York)
980333 New York City Public Schools (Brooklyn)
980334 Cold Spring Harbor Laboratory (Cold Spring Harbor)
980351 United Way of Greater Rochester (Rochester)
980359 Hospice of Central New York (Liverpool)
980362 Columbia University (New York)
980369 The Museum of Modern Art (New York)
980379 Meadowbrook Medical Educational and Research Foundation (East Meadow)
980382 St. Nicholas Neighborhood and Housing Rehabilitation Corporation (Brooklyn)
980404 Newark Central School District Consortium (Newark)
980439 Cornell University (Ithaca)
980442 Queens Borough Public Library (Jamaica)
980444 Haverstraw-Stony Point Central Schools (Garnerville)
980453 Libraries for the Future (New York)
980471 Westchester Arts Council (White Plains)
980479 Consortium for Workers Education (New York)
980480 Epie Institute (Hampton Bays)
980496 Council of Senior Centers and Services of New York City, Inc. (New York)
980511 I Have a Dream Foundation (New York)
980523 Tompkins County, New York (Ithaca)
980525 Town of North Hempstead, New York (Manhasset)
980548 Utica Community Action, Inc. (Utica)
980561 Children's Media Project (Poughkeepsie)
980582 Literacy Volunteers of America, Inc. (Syracuse)
980595 New York State Office of Advocacy for Persons with Disabilities (Albany)
980596 Fund for the Borough of Brooklyn (Brooklyn)
980604 Chocolate Chips Electronic Office, Inc. (Brooklyn)
980613 Fund for the City of New York (New York)
980635 Mercy College (Dobbs Ferry)
980636 Paleontological Research Institution (Ithaca)
980643 Town of East Hampton (East Hampton)
980661 Edad, Inc. (New York)
980666 Community School District No. 5 (New York)
980670 Albany Housing Authority (Albany)
980686 Molloy College (Rockville Centre)
980691 Abyssinian Development Corporation (New York)
980699 Rural Development Leadership Network (New York)
980710 Harlem Legal Services, Inc. (New York)
980721 Town of New Hartford (Oneida)
980724 Community Health Care Association of New York State, Inc. (New York)
980725 Cattaraugus-Allegeny-Erie-Wyoming BOCES (Olean)
980727 Federation of Protestant Welfare Agencies (New York)
980735 New School for Social Research (New York)
980740 Mary McClellan Hospital, Inc. (Washington County)
980758 Town of Clarkstown, New York (New City)

North Carolina

980213 Public Health Authority of Cabarrus County (Kannapolis)
980218 North Carolina Department of Crime Control (Raleigh)
980226 City of Lenoir, North Carolina (Lenoir)
980258 North Carolina Central University (Durham)
980261 State of North Carolina (Raleigh)
980372 Resources for Education Systems and Associates (Shawboro)
980389 Appalachian State University (Boone)

980574 North Carolina State Museum of Natural Sciences (Raleigh)
980585 Wake Forest University (Winston-Salem)
980693 East Carolina University (Greenville)
980718 Onslow Community Ministries, Inc. (Jacksonville)
980728 North Carolina School of Science (Durham)
980762 College of Albermarle (Elizabeth City)

North Dakota

980196 Little Hoop Tribal College (Fort Totten)
980247 Plains Art Museum (Fargo)
980286 Greater Barnes County ITV Consortium (Valley City)
980399 St. Alexius Medical Center (Bismarck)
980452 Minot State University (Minot)

Ohio

980046 Cuyahoga County, Ohio (Cleveland)
980078 Organizacion Civica y Cultural Hispana Americana, Inc. (Youngstown)
980090 Appalachian Center for Economic Networks (Athens)
980139 Children's Hospital of Columbus (Columbus)
980162 City of Celina, Ohio (Celina)
980177 COSI Toledo (Toledo)
980178 Cuyahoga County Board of Health (Cleveland)
980209 Ohio Corporation for Health Information (Columbus)
980251 Greater Cleveland Neighborhood Centers Association (Cleveland)
980355 State of Ohio (Columbus)
980427 L.O.G.I.C. Board (Massillon)
980443 City of Cincinnati (Cincinnati)
980455 Educational Television Association of Metropolitan Cleveland (Cleveland)
980476 Ohio University (Athens)
980490 Shawnee State University (Portsmouth)
980492 Mahoning County, Ohio (Youngstown)
980529 The Islamic School of the Oasis/TISO (Cleveland)
980598 Corporation for Ohio Appalachian Development (Athens)
980704 Delaware County, Ohio (Delaware)

Oklahoma

980013 Oklahoma Department of Vocational and Technical Education (Stillwater)
980019 Grant County, Oklahoma (Melford)
980029 McAlester Regional Health Center (McAlester)
980126 City of Sallisaw, Oklahoma (Sallisaw)
980311 Caddo-Kiowa Vocational Technical Center (Fort Cobb)
980486 City of Tulsa-Rogers County Port Authority (Catoosa)
980568 Community Services Building, Inc. (Norman)
980586 Oklahoma State University (Oklahoma City)

Oregon

980025 Clackamas County Fire District No. 1 (Milwaukie)
980031 Klamath Community Development Corporation (Klamath Falls)
980055 Forest Grove School District (Forest Grove)
980164 City of Ashland, Oregon (Ashland)
980249 Intertribal GIS Council, Inc. (Pendleton)
980329 Mid-Columbia Council of Governments (The Dalles)
980378 Asante Physician Network Development (Medford)
980425 State of Oregon (Salem)
980513 Portland Community College (Portland)
980515 Workforce Development Board (Portland)
980535 Lane Council of Governments (Eugene)
980565 Oregon Multimedia Institute (OMNI) (Medford)
980634 Multnomah Education Service District (Portland)
980650 Deschutes County Victim Assistance (Bend)
980703 Lane Community College (Eugene)

Pennsylvania

980037 Thomas Jefferson University (Philadelphia)
980068 Manchester Craftmen's Guild (Pittsburgh)
980086 Crawford County Regional Alliance (Meadville)
980094 National Adoption Center, Inc. (Philadelphia)
980111 Manor Junior College (Jenkintown)
980128 University of Pittsburgh (Pittsburgh)

980136 Children's Hospital of Pittsburgh (Pittsburgh)
980145 Camria County Area Community College (Johnstown)
980149 Lehigh Carbon Community College (Schnecksville)
980188 Philadelphia College of Osteopathic Medicine (Philadelphia)
980203 North Central Pennsylvania Regional Planning and Development Commission (Ridgway)
980211 Luzerne County Community College (Naticoke)
980221 Center for Agile Pennsylvania Education/CAPE (Bethlehem)
980227 Crozer-Keystone Health System (Springfield)
980243 King's College (Wilkes-Barre)
980248 Lehigh Valley Partnership for Community Health (Bethlehem)
980253 Edinboro University of Pennsylvania (Edinboro)
980337 University of Pennsylvania (Philadelphia)
980364 Wilkinsburg School District (Wilkinsburg)
980367 Township of North Huntingdon, Pennsylvania (North Huntingdon)
980373 Mansfield University of Pennsylvania (Mansfield)
980388 Indiana County, Pennsylvania (Indiana)
980405 City of Wilkes-Barre (Wilkes-Barre)
980435 Roxborough High School (Philadelphia)
980508 University of Pittsburgh (Pittsburgh)
980524 Commonwealth of Pennsylvania (Harrisburg)
980538 Cobbs Creek Community Environmental Education (Philadelphia)
980555 University of Pittsburgh (Pittsburgh)
980560 Carnegie Institute (Pittsburgh)
980571 The ROAD, Inc. (Malvern)
980579 Ben Franklin Technology Center of Southeastern Pennsylvania (Philadelphia)
980629 Educational and Scientific Trust of the Pennsylvania Medical Society (Harrisburg)
980631 Fayette County Community Action Agency, Inc. (Uniontown)
980644 Health Group Telecommunications Company (Meadville)
980649 Central Pennsylvania Legal Services (Harrisburg)
980672 Mt. Lebanon Public Library (Pittsburgh)
980712 Carnegie Mellon University (Pittsburgh)
980746 Tuscarora Intermediate Unit 11 (McVeytown)

Puerto Rico

980027 University of the Sacred Heart (San Juan)
980069 Ponce School of Medicine (Ponce)
980181 Inter-American University of Puerto Rico (San Juan)
980223 Bayamon Central University (Bayamon)
980357 Municipality of Cayey, Puerto Rico (Cayey)
980533 Museo de Arte de Puerto Rico (Santurce)

Rhode Island

980007 State of Rhode Island (North Providence)
980403 Rhode Island State Police (North Scituate)
980749 The Providence Plan (Providence)

South Carolina

980100 City of Spartanburg (Spartanburg)
980108 Richland County, South Carolina (Columbia)
980110 Florence-Darlington Technical College (Florence)
980124 Horry County Schools (Conway)
980131 York Technical College (Rock Hill)
980171 University of South Carolina at Aiken (Aiken)
980190 University of South Carolina at Spartanburg (Columbia)
980195 Benedict College (Columbia)
980231 Tri-County Technical College (Pendleton)
980328 Sumter School District 17 (Sumter)
980360 Trident Technical College (Charleston)
980421 Midlands Technical College (West Columbia)
980498 Aiken Technical College (Graniteville)
980630 Consolidated School District of Aiken County (Aikens)
980657 Central Carolina Technical College (Sumter)
980683 Orangeburg Consolidated School District No. 5 (Orangeburg)
980753 School District of Georgetown County (Georgetown)

South Dakota

980005 Yankton Public Schools (Yankton)
980060 City of Brookings (Brookings)
980061 Rosebud Sioux Tribe (Rosebud)

980151 Sacred Heart Hospital (Yankton)
980169 Rapid City Regional Hospital (Rapid City)
980263 Northern Hills Community Development, Inc. (Sturgis)
980370 Prairie Lakes Hospital and Care Center (Watertown)
980489 YWUABH (Rapid City)
980615 Cangleska, Inc. (Kyle)

Tennessee

980047 Knoxville-Oakridge Regional Network/KORRnet (Knoxville)
980091 Hancock County Public Schools (Sneedville)
980112 Vanderbilt University Medical Center (Nashville)
980216 Dyersburg State Community College (Dyersburg)
980287 City of Memphis (Memphis)
980331 East Tennessee State University (Johnson City)
980352 Frontier Health (Johnson City)
980394 Tennessee State Museum (Nashville)
980456 Ducks Unlimited, Inc. (Memphis)
980483 Performance Learning Cooperative (Sparta)
980497 Columbia State Community College (Columbia)
980520 Memphis City Schools (Memphis)
980682 State of Tennessee (Nashville)
980726 City of LaVergne, Tennessee (LaVergne)

Texas

980014 Robinson Independent School District (Robinson)
980028 John F. Kennedy High School (San Antonio)
980045 Texas A&M University (Kingsville)
980052 Baylor College of Medicine (Houston)
980062 Region XIII Education Service Center (Austin)
980083 University of Texas at Austin (Austin)
980146 University of North Texas (Denton)
980167 San Antonio Independent School District (San Antonio)
980170 Community Council of Greater Dallas (Dallas)
980201 Midwestern State University (Wichita Falls)
980228 Dallas Independent School District (Dallas)
980233 Houston Education Resource Network (Houston)
980290 Orange County, Texas (Orange)
980297 Houston Academy of Medicine (Houston)
980301 Warm Springs Rehabilitation Foundation, Inc. (San Antonio)
980305 Concho Valley Council of Governments (San Angelo)
980312 Jefferson County, Texas (Beaumont)
980336 Texas Low Income Housing Information (Austin)
980345 Scurry County Museum Association, Inc. (Snyder)
980353 City of Euless, Texas (Euless)
980361 Texas Engineering Extension Service (College Station)
980406 City of Denton, Texas (Denton)
980410 University of Texas System (Edinburg)
980430 Texas Christian University (Fort Worth)
980611 Brady Independent School District (Brady)
980651 City of Pasadena, Texas (Pasadena)
980652 Set For Life, Inc. (Houston)
980706 Texas Workforce Commission (Austin)
980730 Catholic Family Service, Inc. (Amarillo)
980737 University Of Texas-Pan American (Edinburg)

Utah

980168 State of Utah (Salt Lake City)
980321 Springville City Corporation (Springville)
980407 Utah State University (Logan)
980597 Western Governors University (Salt Lake City)
980622 Utah Valley State College (Orem)
980658 Utah State University (Logan)
980664 Salt Lake City Corporation (Salt Lake)
980671 State of Utah (Murray)

Vermont

980304 Vermont Telecommunications Application Center (Burlington)
980506 Vermont Council on the Arts, Inc. (Montpelier)
980544 Windsor School District (Windsor)

980612 Vermont Law School (South Royalton)
980628 State of Vermont (Waterbury)

Virginia

980071 Hampton University (Hampton)
980141 City of Martinsville, Virginia (Martinsville)
980277 County of Henry, Virginia (Collinsville)
980294 Portsmouth Museums Foundation, Inc. (Portsmouth)
980374 Chesterfield County, Virginia (Chesterfield)
980426 Commonwealth of Virginia (Richmond)
980449 Franklin County Public Schools (Rocky Mount)
980469 Arlington County, Virginia (Arlington)
980504 Virginia Museum of Natural History (Martinsville)
980519 The India-U.S. Foundation, Inc. (Fairfax)
980532 National Wildlife Federation (Vienna)
980550 United Way of America (Alexandria)
980580 Southwest Virginia Education and Training Network (Abingdon)
980590 Cable Alliance for Education (Alexandria)
980694 Middle Peninsula Planning District Commission (Saluda)
980754 Virginia Polytechnic Institute and State University (Blacksburg)

Virgin Islands

980340 U.S.Virgin Islands Department of Education (St. Thomas)

Washington

980023 Alliance for the Advancement of Science Through Astronomy (Richland)
980056 Community Technology Institute (Seattle)
980137 City of Richland, Washington (Richland)
980191 Grays Harbor EMS Council, Inc. (Aberdeen)
980220 City of Seattle (Seattle)
980242 Law Enforcement Support Agency (Tacoma)
980257 Northwest Intertribal Court System (Edmonds)
980272 Port of Grays Harbor (Aberdeen)
980319 Reca Foundation (Kennewick)
980391 Washington State University at Spokane (Spokane)
980434 SnoNet (Everett)
980625 Alliance of Information and Referral Systems (Seattle)
980667 City of Tacoma, Washington (Tacoma)
980678 Mr. Edward David Perrotti (Aberdeen)

West Virginia

980101 Marshall University Research Corporation (Huntington)
980138 West Virginia University (Morgantown)
980474 West Virginia Network (Morgantown)
980552 West Virginia University (Morgantown)
980701 United Health Foundation (Clarksburg)

Wisconsin

980077 State of Wisconsin (Madison)
980089 University of Wisconsin at Madison (Madison)
980204 Eau Claire County, Wisconsin (Eau Claire)
980268 Lakeland Union High School (Minocqua)
980310 Door County, Wisconsin (Sturgeon Bay)
980346 Milwaukee County, Wisconsin (Milwaukee)
980433 Village of Waunakee, Wisconsin (Waunakee)
980494 State Bar of Wisconsin (Madison)
980495 CAP Services, Inc. (Stevens Point)
980517 Project Bootstrap, Inc. (Madison)
980731 Green County, Wisconsin (Monroe)
980734 School of District of Phelps (Phelps)
980752 Black Earth Firemen's Association (Black Earth)

Wyoming

980605 Community Foundation of Jackson Hole (Jackson)

Bernadette McGuire-Rivera,
Associate Administrator, Office of Telecommunications and Information Applications.
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federal register

Tuesday
April 28, 1998

Part III

Department of the Treasury

Fiscal Service

31 CFR Part 285
Salary Offset; Interim Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 285

RIN 1510–AA70

Salary Offset

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Interim rule with request for comments.

SUMMARY: The Debt Collection Improvement Act of 1996 (DCIA) requires the Federal Government to withhold or reduce certain Federal payments to satisfy the delinquent nontax debts owed to the United States by the payee. This process is known as "administrative offset." In addition, the DCIA requires Federal agencies, using a process known as centralized salary offset computer matching, to identify Federal employees who owe delinquent nontax debt to the United States. This interim rule establishes centralized computer matching procedures for comparing delinquent debt information with Federal salary payment information for the purpose of offsetting the salary payments of those employees who owe debt to the United States once they are identified. This interim rule also establishes the rules governing the administrative offset of Federal salary payments through a centralized offset process operated by the Financial Management Service of the U.S. Department of the Treasury.

DATES: This rule is effective April 28, 1998. Comments must be received on or before May 28, 1998.

ADDRESSES: All comments should be addressed to Gerry Isenberg, Financial Program Specialist, Debt Management Services, Financial Management Service, 401 14th Street SW, Room 151, Washington, D.C. 20227. A copy of this interim rule is being made available for downloading from the Financial Management Service web site at the following address: http://www.fms.treas.gov.

FOR FURTHER INFORMATION CONTACT: Gerry Isenberg, Financial Program Specialist, at (202) 874–6859; or Ellen Neubauer or Ronda Kent, Senior Attorneys, at (202) 874–6680.

SUPPLEMENTARY INFORMATION:

Background

A major purpose of the Debt Collection Improvement Act of 1996 (DCIA), Pub. L. 104–134, 110 Stat. 1321–358 *et seq.* (April 26, 1996), is to increase the collection of delinquent nontax debts owed to the Federal Government. Among other things, the DCIA established a centralized process for withholding or reducing eligible Federal payments, including Federal salary payments, to pay the payee's delinquent debt owed to the United States. This process is known as "administrative offset." The DCIA also established a requirement that Federal agencies match their delinquent debtor records with records of Federal employees, at least annually, to identify Federal employees who owe delinquent debt to the Federal Government. This rule establishes centralized procedures for matching delinquent debt records with Federal salary payment records for the purpose of offsetting a debtor's Federal salary payments where a match occurs.

The Financial Management Service (FMS), a bureau of the Department of the Treasury (Treasury), disburses more than 850 million Federal payments annually, including Federal salary payments. As the Treasury disbursing agency, FMS is responsible for the implementation of centralized administrative offset of Federal payments for the collection of delinquent nontax debt. To meet this responsibility, FMS has established the Treasury Offset Program. By participating in the Treasury Offset Program in accordance with the provisions of this rule, Federal agencies will comply with the DCIA requirements regarding Federal employees who owe delinquent nontax debts to the United States.

The Treasury Offset Program works as follows. FMS maintains a delinquent debtor database. The database includes delinquent debtor information submitted and updated by Federal agencies and States. Under the DCIA, Federal agencies are required to notify FMS of all past-due, legally enforceable nontax debts owed to the United States that are over 180 days delinquent for inclusion in this delinquent debtor database.

As part of the Federal payment process, FMS and other Federal disbursing officials compare the payee information with debtor information in the delinquent debtor database operated by FMS. If the payee's name and taxpayer identifying number (TIN) match the name and TIN of a debtor, the payment is offset, in whole or part, to satisfy the debt, to the extent allowed by law. This rule establishes specific procedures for the comparison of information contained in the delinquent debtor database with payee information contained on Federal salary payments and for the offset of those payments where a match occurs.

Amounts collected are transmitted to the appropriate agencies owed the delinquent debt after the disbursing official deducts a fee charged to cover the cost of the offset program. The authority of disbursing officials to charge fees is found at 31 U.S.C. 3716(c)(4). Additionally, as authorized by 5 U.S.C. 5514, agencies that perform centralized salary offset computer matching services may charge a fee sufficient to cover the full cost for such services. Under 31 U.S.C. 3717(e) the agencies which are owed the delinquent debt may add the fees to the debt as part of the administrative cost, if permitted by law.

Information about a delinquent debt remains in the debtor database and offsets of eligible Federal salary and other payments will continue until debt collection activity for the debt is terminated because of full payment, establishment of a repayment plan, compromise, write-off or other reasons justifying termination. In centralizing offset through the Treasury Offset Program, FMS will consolidate and simplify offset procedures for the Federal Government.

Other rules and procedures reflect requirements for other types of payments or debts, as well as the general rules applicable to collection of debts by offset. FMS has promulgated or will promulgate other rules governing the centralized offset of Federal payments (other than Federal salary payments) for the collection of debts owed to Federal agencies, for the collection of debts owed to States, and for the collection of past-due child support. FMS anticipates that Part 285 of this title will contain all of the provisions relating to the centralized offset of Federal payments for the collection of debts owed to the Federal Government and to State governments, including past-due child support.

Section Analysis

(a) *Purpose and Scope.* Paragraph (a) explains that this rule establishes procedures for matching records of delinquent debtors with Federal employee records as required under 5 U.S.C. 5514(a)(1) and, where a match occurs, for offsetting Federal salary payments through centralized administrative offset under 31 U.S.C. 3716. Nothing in this rule precludes an agency from pursuing collection remedies in addition to salary offset.

(b) *Definitions.* This rule includes the following definitions.

Administrative offset. The term "administrative offset" or "offset" as

defined in this rule has the same meaning as found in 31 U.S.C. 3701(a)(1).

Agency. The term "agency" as defined in this rule has the same meaning as found in 31 U.S.C. 3701(a)(4) and includes all agencies required by 5 U.S.C. 5514(a)(1) to participate in centralized salary offset computer matching. The term refers to an agency in the executive, judicial or legislative branches of the Government, including government corporations, that administers the program that gave rise to the debt.

Centralized salary offset computer matching. The phrase "centralized salary offset computer matching" describes the computerized process used to match delinquent debt records with Federal salary payment records when the purpose of the match is to identify Federal employees who owe debt to the Federal Government.

Debt. For the purposes of this rule, the term "debt" has the same meaning as found in 31 U.S.C. 3701(b)(1) and does not include tax debt.

Delinquent debt record. For purposes of this rule, the term "delinquent debt record" refers to the information about a debt that an agency submits to FMS when the agency refers the debt for collection by offset in accordance with the provisions of 31 U.S.C. 3716.

Disbursing official. "Disbursing official" means an official who has authority to disburse Federal salary payments pursuant to 31 U.S.C. 3321 or another law. It includes disbursing officials of the Department of the Treasury, the Department of Defense, the United States Postal Service, or any other government corporation, any disbursing official of the United States designated by the Secretary of the Treasury, or any disbursing official of any other executive department or agency that disburses Federal salary payments.

Disposable pay. "Disposable pay" has the same meaning as prescribed by the Office of Personnel Management (OPM) in 5 CFR 550.1103. As defined by OPM, "disposable pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of (a) any amount required by law to be withheld; (b) amounts properly withheld for Federal, state or local income tax purposes; (c) amounts deducted as health insurance premiums; (d) amounts deducted as normal retirement contributions, not including amounts deducted for supplementary coverage; and (e) amounts deducted as normal life insurance premiums not including amounts deducted for supplementary coverage.

Federal employee. The term "Federal employee" is intended to cover any individual who is employed by any agency of the Federal Government, including temporary and seasonal employees.

Federal employee records. "Federal employee records" are the Federal salary payment records. To request salary payments for their employees, Federal agencies prepare and certify payment vouchers. Disbursing officials of the Federal Government issue salary payments upon receipt of certified payment vouchers. To identify Federal employees who owe debt to the United States, the Federal salary payment records will be compared with the delinquent debt records submitted to FMS.

Paying agency. The "paying agency" is the employing agency or the payroll agency (e.g., the United States Department of Agriculture's National Finance Center). The paying agency prepares and certifies payment vouchers pursuant to which disbursing officials issue salary payments.

Salary offset. "Salary offset" is a type of administrative offset. As amended by section 31001(d)(2)(B) of the DCIA, 31 U.S.C. 3716 is applicable to the offset of all Federal payments even if another statute provides for using offset to collect a particular type of debt. *See* 31 U.S.C. 3716(e) (formerly 31 U.S.C. 3716(c)). Thus, the provisions of 31 U.S.C. 3716 apply to salary offset even though procedures governing the offset of a Federal employee's salary are provided for in 5 U.S.C. 5514. The requirements to provide a Federal employee with notice and an opportunity to dispute the debt are contained in 5 U.S.C. 5514 and implementing regulations. Nothing in this rule is intended to change the prerequisites to salary offset.

Taxpayer identifying number. For an individual the "taxpayer identifying number" is the social security number. An offset of an individual's salary payment will not occur unless the taxpayer identifying number and name of the payee match the taxpayer identifying number and name of the debtor.

(c) *Establishment of the consortium.* Paragraph (c) defines the interagency consortium that the Secretary, by issuance of this rule, establishes in accordance with the requirement contained in 5 U.S.C. 5514(a)(1). The purpose of the interagency consortium is to establish a centralized salary offset computer matching process. Therefore, paragraph (c) provides that the interagency consortium initially consists of all agencies which disburse Federal salary payments and which are required to offset Federal payments to collect debts. *See* 31 U.S.C. 3716(c)(1)(A). These agencies have the information necessary to identify all Federal employees who are receiving Federal salary payments. The membership of the consortium may be changed at the discretion of the Secretary, and the Secretary will be responsible for the ongoing coordination of the activities of the consortium.

(d) *Creditor agency participation.* The DCIA requires agencies to notify FMS of all past-due, legally enforceable debt over 180 days delinquent for purposes of administrative offset. *See* 31 U.S.C. 3716(c)(6). As explained in paragraph (d)(1), by complying with this notification requirement, agencies simultaneously will comply with the salary offset matching requirement under 5 U.S.C. 5514(a)(1). It is anticipated that all Federal disbursing officials will match Federal salary payment records against the debtor records contained in the delinquent debtor database. Currently, however, full implementation of the centralized salary offset computer matching process is not complete. Therefore, until the procedures described in this rule are fully implemented, it is important that agencies continue existing salary matching processes to identify, and collect debt owed from the salaries of, Federal employees who may not be identified through the Treasury Offset Program process.

Debts referred to FMS for purposes of administrative offset will be matched with all Federal payment records, including Federal salary payments. After a match occurs, unless offset is legally prohibited, the payee's payment will be offset to pay the payee's debt after proper notice and opportunity to review and dispute the debt have been provided to the payee (*see* paragraph (d)(3) of this section). Agencies also may refer debts less than 180 days delinquent so long as the debt is past-due and legally enforceable and all prerequisites to offset have been met.

Paragraph (d)(2) provides that before submitting a debt to FMS for purposes of administrative offset and salary offset matching, agencies must have issued regulations governing the collection of debt by both administrative offset and salary offset. Agency regulations governing the collection of debt by administrative offset must comply with 31 U.S.C. 3716(b) and with the Federal Claims Collection Standards (4 CFR Parts 101–105; *see also*, Notice of

Proposed Rulemaking concerning revisions to the Federal Claims Collection Standards, 62 FR 68475, Dec. 31, 1997). Agency regulations governing the collection of debt by salary offset must comply with 5 U.S.C. 5514 and with regulations issued by OPM (5 CFR 550.1101 through 550.1108; *see also,* Notice of Proposed Rulemaking concerning revisions to the OPM regulations, 63 FR 18850, April 16, 1998). Although salary offsets under this rule are being conducted through a centralized process under 31 U.S.C. 3716, agencies must nevertheless comply with the requirements for regulations contained in 5 U.S.C. 5514 and OPM regulations. An agency that has already published offset regulations need not publish new regulations except as may be necessary to conform the regulations to DCIA requirements.

Paragraph (d)(3) describes agency certification requirements when submitting a debt to FMS for offset, including salary offset. Nothing in the DCIA modified the pre-offset due process notices and opportunities afforded to debtors, in general, and Federal employees, in particular. Therefore, a debt may not be submitted to FMS for offset and salary offset matching unless the creditor agency certifies, in writing, that the debtor has been afforded the legally required due process. Paragraph (d)(3)(iv) explains that, with the approval of FMS, the specific notices and opportunities required as a prerequisite to salary offset may be provided to the debtor after the debt is submitted to FMS, but must be provided prior to the offset of an employee's salary.

Paragraph (d)(4) explains that the creditor agency is responsible for notifying FMS of any changes to the debt amount (other than offset collections) and any changes to the status of the legal enforceability of the debt. For example, unless the creditor agency determines that the automatic stay imposed at the time of a bankruptcy filing pursuant to 11 U.S.C. 362 has been lifted or is no longer in effect, in most cases collection activity against the debtor should stop immediately. Therefore, it is imperative that the creditor agency notify FMS immediately upon learning that a bankruptcy petition has been filed with respect to a debtor.

(e) *Centralized salary offset computer match.* Paragraph (e) explains that the delinquent debt records submitted by creditor agencies will be compared with the Federal employee records (salary payment records) maintained by the members of the consortium described in paragraph (c). A match will occur when the taxpayer identifying number and name of a payee match the taxpayer identifying number and name of a debtor. For purposes of the computer matching process, the "name" will be a portion of the name, known as a "name control," designed to ensure accurate matching. The purpose of the computer matching process is to identify those Federal employees who owe delinquent debt and, once identified, to offset the employee's salary to pay the employee's delinquent debt. As noted above, salary offset is a type of administrative offset.

Although generally such computer matches are subject to the Computer Matching and Privacy Protection Act of 1988, Pub. L. No. 100–503 (Computer Matching Act), the DCIA authorizes the Secretary to waive certain provisions of the Computer Matching Act for administrative offset. *See* 31 U.S.C. 3716(f). Specifically, the Secretary is authorized to waive the Computer Matching Act requirements of completing matching agreements (contained in 5 U.S.C. 552a(o)) and post-match notification to the individual and verification of the resulting data (contained in 5 U.S.C. 552a(p)). The waiver is authorized upon the written certification by the head of the creditor agency that the requirements of 31 U.S.C. 3716(a) have been met. The waiver authority has been delegated by the Secretary to FMS. The certification that agencies are required to submit when referring their debts to FMS for offset, as described in paragraph (d)(3)(iii) of the rule, meets the certification requirement for waiver. Section 3716(a) requires that, prior to collecting a debt by administrative offset, agencies shall provide the debtor with written notice of the nature and amount of the debt and an opportunity to inspect and copy records, for review of the debt determination, and to enter into a repayment agreement. Agencies also must notify the debtor that the agency intends to collect the debt by administrative offset. FMS will not accept any debts into the debtor database (and therefore will not conduct any computer matches for offset purposes) unless the debts are accompanied by the written certification required by paragraph (d)(3)(iii) of this rule. In addition to certifying that the agency has complied with the requirements of 31 U.S.C. 3716 for offset, prior to offset of an employee's salary, the creditor agency must certify that the prerequisites to salary offset also have been met.

(f) *Salary offset.* Paragraph (f) states that when a match occurs, and all other requirements for offset have been met, Federal disbursing officials will offset the Federal employee's salary payment to satisfy, in whole or in part, the debt. As discussed in paragraph (e)(1), a match occurs when the taxpayer identifying number and name of a payee match the taxpayer identifying number and name of a debtor.

Under 5 U.S.C. 5514 and as described in paragraph (g), the amount that may be offset from a Federal employee's salary payment is limited to 15% of the employee's disposable pay. Since disbursing officials may not have the information necessary to calculate 15% of an employee's disposable pay, disbursing officials may request that the paying agency deduct the amount to be offset before payment is certified to a disbursing official for payment.

(g) *Offset amount.* Under 5 U.S.C. 5514, the amount that may be offset from an employee's salary payment is limited to 15% of the employee's disposable pay. A disbursing official, after notifying the creditor agency or at the request of a creditor agency, may offset less than 15%. In addition, the debtor may agree to the offset of an amount greater than 15%.

(h) *Priorities.* As required by 5 U.S.C. 5514(d), paragraph (h)(1) of this section provides that tax levies imposed by the Internal Revenue Service take precedence over deductions from an employee's salary to pay a nontax debt owed to the United States.

Paragraph (h)(2) states that amounts offset from a Federal employee's salary will be applied first to the employee's past-due child support obligations which have been assigned to a State before being applied to the nontax debts owed by the employee to the United States. As currently set forth in this rule, only those child support debts which have been assigned to a State as reimbursement for public assistance paid to a family are given priority over debts owed to the Federal government. Amounts offset from a Federal employee's salary will be applied to child support obligations that have not been assigned to a State (and are owed directly to the custodial family) after payment of assigned child support debts and Federal debts owed by the employee. The priorities set forth in this interim rule parallel the statutory priorities that govern the offset of a debtor's tax refund payment. *See* 26 U.S.C. 6402(c) and 6402(d)(2). The public is invited to comment specifically on the priorities set forth in this rule and whether, for salary offset purposes, child support debts assigned to a State should have priority over debts owed to the Federal government. In addition, the public is invited to comment specifically on whether debts owed to the Federal government should

have priority over child support debts which have not been assigned to a State.

(i) *Notice.* Before offsetting a salary payment, the disbursing official, or the paying agency on behalf of the disbursing official, must notify the Federal employee in writing of the date deductions from salary will begin and of the amount of such deductions. The amount of the deductions may be stated as a percentage of pay. Additionally, once an offset of a salary payment has occurred, the disbursing official, or the paying agency on behalf of the disbursing official, must provide written notice to the Federal employee that the offset has occurred. This written notice may appear on a Leave and Earnings Statement (or similar statement) provided to the Federal employee. The disbursing official also will inform the creditor agency that an offset has occurred but will not inform the creditor agency of the payment source of the amounts collected. Since disbursing agencies will be conducting offsets of various payment types, debt repayment may result from any one of a number of payment sources.

(j) *Fees.* Agencies that perform salary offset matching services may charge fees pursuant to 5 U.S.C. 5514(a)(1). FMS, or a paying agency acting on behalf of FMS, may charge a fee sufficient to cover the full cost of implementing the offset program pursuant to 31 U.S.C. 3716(c)(4). The creditor agency may add any fees to the debt as an administrative cost pursuant to 31 U.S.C. 3717(e), if permitted by law. Fees may be deducted from the amount offset before that amount is transmitted to the creditor agency. The amount of the fee may be adjusted annually to ensure that the fee adequately covers the administrative costs of the offset program.

(k) *Disposition of omounts collected.* Paragraph (k) describes how amounts collected from salary payments will be transmitted to creditor agencies.

Regulatory Analysis

This interim rule is not a significant regulatory action as defined in Executive Order 12866. Because no notice of proposed rulemaking is required for this interim rule, the provisions of the Regulatory Flexibility Act do not apply.

Special Analyses

FMS is promulgating this interim rule without opportunity for prior public comment pursuant to the Administrative Procedure Act, 5 U.S.C. 553 (the "APA"), because FMS has determined, for the following reasons, that a comment period would be unnecessary, impracticable and contrary to the public interest. A comment period is unnecessary because this interim rule does not change how the Federal salary offset process affects the Federal employee who owes delinquent nontax debt. The interim rule reflects changes to the procedures as to how creditor agencies will identify Federal employees who owe delinquent nontax debt for purposes of offsetting the salary payments of the identified Federal employees. Under this interim rule, creditor agencies are required to provide to the debtor the same pre-offset notice, opportunities, and rights to dispute the debt and seek waiver as currently required under 5 U.S.C. 5514 and implementing regulations.

FMS has determined that good cause exists to make this interim rule effective upon publication without providing the 30 day period between publication and the effective date contemplated by 5 U.S.C. 553(d). The purpose of a delayed effective date is to afford persons affected by a rule a reasonable time to prepare for compliance. However, in this case, as required by the DCIA which was effective on April 26, 1996, agencies already participate in the Treasury Offset Program. Many agencies have collected debts by salary offset over the last 15 years. Procedures affecting debtors remain unchanged in this rule.

Centralized salary offset computer matching for offset purposes will improve the efficiency of Treasury's government-wide collection of nontax delinquent debts owed by Federal employees. This rule provides critical guidance that will facilitate creditor agencies' participation in centralized salary offset computer matching as required by the DCIA. Therefore, FMS believes that good cause exists and that it is in the public interest to issue the interim rule without opportunity for prior public comment.

The public is invited to submit comments on the interim rule in general and on the specific points mentioned above which will be taken into account before a final rule is issued.

List of Subjects in 31 CFR Part 285

Administrative practice and procedure, Claims, Debt, Federal employees, Salaries, Wages.

Authority and Issuance

For the reasons set forth in the preamble, part 285 of 31 CFR chapter II, subchapter A, is amended as follows:

PART 285—DEBT COLLECTION AUTHORITIES UNDER THE DEBT COLLECTION IMPROVEMENT ACT OF 1996

1. The authority citation for part 285 is revised to read as follows:

Authority: 5 U.S.C. 5514; 26 U.S.C. 6402; 31 U.S.C. 321, 3701, 3711, 3716, 3720A; E.O. 13019; 3 CFR, 1996 Comp., p. 216.

2. Section 285.7 is added to Subpart A to read as follows:

§ 285.7 Salary offset.

(a) *Purpose ond scope.* (1) This section establishes procedures for the offset of Federal salary payments, through FMS' administrative offset program, to collect delinquent debts owed to the Federal Government. This process is known as salary offset. Rules issued by the Office of Personnel Management contain the requirements Federal agencies must follow prior to conducting salary offset and the procedures for requesting offsets directly from a paying agency. *See* 5 CFR 550.1101 through 550.1108.

(2) This section implements the requirement under 5 U.S.C. 5514(a)(1) that all Federal agencies, using a process known as centralized salary offset computer matching, identify Federal employees who owe delinquent nontax debt to the United States. Centralized salary offset computer matching is the computerized comparison of delinquent debt records with records of Federal employees. The purpose of centralized salary offset computer matching is to identify those debtors whose Federal salaries should be offset to collect delinquent debts owed to the Federal Government.

(3) This section specifies the delinquent debt records and Federal employee records that must be included in the salary offset matching process. For purposes of this section, delinquent debt records consist of the debt information submitted to the Financial Management Service for purposes of administrative offset as required under 31 U.S.C. 3716(c)(6). Agencies that submit their debt to FMS for purposes of administrative offset are not required to submit duplicate information for purposes of centralized salary offset computer matching under 5 U.S.C. 5514 and this section.

(4) This section establishes an interagency consortium to implement centralized salary offset computer matching on a government-wide basis as required under 5 U.S.C. 5514(a)(1). Federal employee records consist of records of Federal salary payments disbursed by members of the consortium.

(5) The receipt of collections from salary offsets does not preclude a creditor agency from pursuing other debt collection remedies, including the offset of other Federal payments to satisfy delinquent nontax debt owed to the United States. A creditor agency should pursue, when deemed appropriate by such agency, such debt collection remedies separately or in conjunction with salary offset.

(b) *Definitions.* For purposes of this section:

Administrative offset means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

Agency means a department, agency or subagency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal government, including government corporations.

Centralized salary offset computer matching means the computerized comparison of Federal employee records with delinquent debt records to identify Federal employees who owe such debts.

Creditor agency means any agency that is owed a debt.

Debt means any amount of money, funds, or property that has been determined by an appropriate official of the Federal government to be owed to the United States by a person, including debt administered by a third party acting as an agent for the Federal Government. For purposes of this section, the term "debt" does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C.).

Delinquent debt record means information about a past-due, legally enforceable debt, submitted by a creditor agency to FMS for purposes of administrative offset (including salary offset) in accordance with the provisions of 31 U.S.C. 3716 and applicable regulations. Debt information includes the amount and type of debt and the debtor's name, address, and taxpayer identifying number.

Disbursing official means an officer or employee designated to disburse Federal salary payments. This section applies to all disbursing officials of Federal salary payments, including but not limited to, disbursing officials of the Department of the Treasury, the Department of Defense, the United States Postal Service, any government corporation, and any disbursing official of the United States designated by the Secretary.

Disposable pay has the same meaning as that term is defined in 5 CFR 550.1103.

Federal employee means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves), employees of the United States Postal Service, and seasonal and temporary employees.

Federal employee records means records of Federal salary payments that a paying agency has certified to a disbursing official for disbursement.

FMS means the Financial Management Service, a bureau of the Department of the Treasury.

Paying agency means the agency that employs the Federal employee who owes the debt and authorizes the payment of his or her current pay. A paying agency also includes an agency that performs payroll services on behalf of the employing agency.

Salary offset means administrative offset to collect a debt owed by a Federal employee from the current pay account of the employee.

Secretary means the Secretary of the Treasury or his or her delegate.

Taxpayer identifying number means the identifying number described under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109). For an individual, the taxpayer identifying number is the individual's social security number.

(c) *Establishment of the consortium.* As required by the provisions of 5 U.S.C. 5514(a)(1), by issuance of this section, the Secretary establishes an interagency consortium to implement centralized salary offset computer matching. The consortium initially includes all agencies that disburse Federal salary payments, including but not limited to, FMS, the Department of Defense, the United States Postal Service, government corporations, and agencies with Treasury-designated disbursing officials. The membership of the consortium may be changed at the discretion of the Secretary, and the Secretary will be responsible for the ongoing coordination of the activities of the consortium.

(d) *Creditor agency participation.* (1) As required under 5 U.S.C. 5514(a)(1), creditor agencies shall participate at least annually in centralized salary offset computer matching. To meet this requirement, creditor agencies shall notify FMS of all past-due, legally enforceable debts delinquent for more than 180 days for purposes of administrative offset, as required under 31 U.S.C. 3716(c)(6). Additionally, creditor agencies may notify FMS of past-due, legally enforceable debts delinquent for less than 180 days for purposes of administrative offset.

(2) Prior to submitting debts to FMS for purposes of administrative offset (including salary offset) and centralized salary offset computer matching, Federal agencies shall prescribe regulations in accordance with the requirements of 31 U.S.C. 3716 (administrative offset) and 5 U.S.C. 5514 (salary offset).

(3) Prior to submitting a debt to FMS for purposes of collection by administrative offset, including salary offset, creditor agencies shall provide written certification to FMS that:

(i) The debt is past-due and legally enforceable in the amount submitted to FMS and that the creditor agency will ensure that collections (other than collections through offset) are properly credited to the debt;

(ii) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within ten years after the agency's right of action accrues;

(iii) The creditor agency has complied with the provisions of 31 U.S.C. 3716 (administrative offset) and related regulations including, but not limited to, the provisions requiring that the creditor agency provide the debtor with applicable notices and opportunities for a review of the debt; and

(iv) The creditor agency has complied with the provisions of 5 U.S.C. 5514 (salary offset) and related regulations including, but not limited to, the provisions requiring that the creditor agency provide the debtor with applicable notices and opportunities for a hearing.

(4) FMS may waive the certification requirement set forth in paragraph (d)(3)(iv) of this section as a prerequisite to submitting the debt to FMS. If FMS waives the certification requirement, before an offset occurs, the creditor agency shall provide the Federal employee with the notices and opportunities for a hearing as required by 5 U.S.C. 5514 and applicable regulations, and shall certify to FMS that the requirements of 5 U.S.C. 5514 and applicable regulations have been met.

(5) The creditor agency shall notify FMS immediately of any payments credited by the creditor agency to the debtor's account, other than credits for amounts collected by offset, after submission of the debt to FMS. The creditor agency also shall notify FMS immediately of any change in the status of the legal enforceability of the debt, for example, if the creditor agency receives notice that the debtor has filed for bankruptcy protection.

(e) *Centralized salary offset computer match.* (1) Delinquent debt records will

be compared with Federal employee records maintained by members of the consortium or paying agencies. The records will be compared to identify Federal employees who owe delinquent debts for purposes of collecting the debt by administrative offset. A match will occur when the taxpayer identifying number and name of a Federal employee are the same as the taxpayer identifying number and name of a debtor.

(2) As authorized by the provisions of 31 U.S.C. 3716(f), FMS, under a delegation of authority from the Secretary, has waived certain requirements of the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. 552a, as amended, for administrative offset, including salary offset, upon written certification by the head of the creditor agency that the requirements of 31 U.S.C. 3716(a) have been met. Specifically, FMS has waived the requirements for a computer matching agreement contained in 5 U.S.C. 552a(o) and for post-match notice and verification contained in 5 U.S.C. 552a(p). The creditor agency will provide certification in accordance with the provisions of paragraph (d)(3)(iii) of this section.

(f) *Salary offset.* When a match occurs and all other requirements for offset have been met, as required by the provisions of 31 U.S.C. 3716(c) the disbursing official shall offset the Federal employee's salary payment to satisfy, in whole or part, the debt owed by the employee. Alternatively, the paying agency, on behalf of the disbursing official, may deduct the amount of the offset from an employee's disposable pay before the employee's salary payment is certified to a disbursing official for disbursement.

(g) *Offset amount.* (1) The amount offset from a salary payment under this section shall be the lesser of:

(i) The amount of the debt, including any interest, penalties and administrative costs; or

(ii) An amount up to 15% of the debtor's disposable pay.

(2) Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and the creditor agency.

(3) Offsets will continue until the debt, including any interest, penalties, and costs, is paid in full or otherwise resolved to the satisfaction of the creditor agency.

(h) *Priorities.* (1) A levy pursuant to the Internal Revenue Code of 1986 shall take precedence over other deductions under this section.

(2) When a salary payment may be reduced to collect more than one debt, amounts offset under this section will be applied to a debt only after amounts offset have been applied to satisfy past due child support debts assigned to a State pursuant to 402(a)(26) or section 471(a)(17) of the Social Security Act.

(i) *Notice.* (1) Before offsetting a salary payment, the disbursing official, or the paying agency on behalf of the disbursing official, shall notify the Federal employee in writing of the date deductions from salary will commence and of the amount of such deductions.

(2)(i) When an offset occurs under this section, the disbursing official, or the paying agency on behalf of the disbursing official, shall notify the Federal employee in writing that an offset has occurred including:

(A) A description of the payment and the amount of offset taken;

(B) The identity of the creditor agency requesting the offset; and,

(C) A contact point within the creditor agency that will handle concerns regarding the offset.

(ii) The information described in paragraphs (i)(2)(i)(B) and (i)(2)(i)(C) of this section does not need to be provided to the Federal employee when the offset occurs if such information was included in a prior notice from the disbursing official or paying agency.

(3) The disbursing official will advise each creditor agency of the names, mailing addresses, and taxpayer identifying numbers of the debtors from whom amounts of past-due, legally enforceable debt were collected and of the amounts collected from each debtor for that agency. The disbursing official will not advise the creditor agency of the source of payment from which such amounts were collected.

(j) *Fees.* Agencies that perform centralized salary offset computer matching services may charge a fee sufficient to cover the full cost for such services. In addition, FMS, or a paying agency acting on behalf of FMS, may charge a fee sufficient to cover the full cost of implementing the administrative offset program. FMS may deduct the fees from amounts collected by offset or may bill the creditor agencies. Fees charged for offset shall be based on actual administrative offsets completed.

(k) *Disposition of amounts collected.* The disbursing official conducting the offset will transmit amounts collected for debts, less fees charged under paragraph (j) of this section, to the appropriate creditor agency. If an erroneous offset payment is made to a creditor agency, the disbursing official will notify the creditor agency that an erroneous offset payment has been made. The disbursing official may deduct the amount of the erroneous offset payment from future amounts payable to the creditor agency. Alternatively, upon the disbursing official's request, the creditor agency shall return promptly to the disbursing official or the affected payee an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to such agency have been paid). The disbursing official and the creditor agency shall adjust the debtor records appropriately.

Dated: April 22, 1998.

Richard L. Gregg,

Commissioner.

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federal register

Tuesday
April 28, 1998

Part IV

Environmental Protection Agency

40 CFR Parts 141 and 142
Revisions to State Primacy Requirements To Implement Safe Drinking Water Act Amendments; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[FRL–6003–5]

RIN–2040–AD00

Revisions to State Primacy Requirements To Implement Safe Drinking Water Act Amendments

AGENCY: Environmental Protection Agency.

ACTION: Final rule; interpretation.

SUMMARY: Today's action amends the regulations that set forth the requirements for States to obtain and retain primary enforcement authority (primacy) for the Public Water System Supervision (PWSS) program under section 1413 of the Safe Drinking Water Act (SDWA) as amended by the 1996 Amendments. This rule adds the new administrative penalty authority requirement that States must meet in order to obtain or retain primacy, plus changes the timing for a State to adopt new or revised drinking water regulations. The rule also changes a State's primacy status while awaiting a final determination on its primacy application. Additionally, the rule's language provides examples of circumstances that require an emergency plan for the provision of safe drinking water. Lastly, this action expands the definition of a *public water system* (PWS). Since all of the above changes are merely a codification of the amended SDWA, the Agency is publishing this document as a final rule.

DATES: This action is effective April 28, 1998 except for § 142.11 which contains information collection requirements that have not yet been approved by Office of Management and Budget (OMB). EPA will publish a document in the **Federal Register** announcing the effective date of § 142.11

FOR FURTHER INFORMATION CONTACT: The Safe Drinking Water Hotline, toll free (800) 426–4791, or Jennifer Melch; Regulatory Implementation Branch; Office of Ground Water and Drinking Water; EPA (4606), 401 M Street, S.W., Washington, DC 20460; telephone (202) 260–7035.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially regulated by this action are those which have primary enforcement authority for the PWSS program and those which meet the criteria of the PWS definition. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Public Water Systems.
State Government	Agencies with primary enforcement authority for the PWSS program.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria in §§ 141.2, 142.2, and 142.10 and the applicability criteria in §§ 142.3 and 142.10 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.

Table of Contents

A. Summary and Explanation of Today's Action

40 CFR part 142, subpart B, sets out requirements for States to obtain and/or retain primacy for the Public Water System Supervision (PWSS) program as authorized by section 1413 of the Safe Drinking Water Act (SDWA). The Safe Drinking Water Act Amendments of 1996 created an additional requirement for States to obtain and/or retain primacy for the PWSS program. Section 1413(a)(6) requires States to have administrative penalty authority. Today's rule adds a provision to § 142.10 incorporating this new requirement. Because questions have arisen on the meaning of section 1413(a)(6), today's preamble sets forth EPA's interpretation of this section.

The addition of section (e) in § 142.12 of this rule is also due to the 1996 Amendments. Section 142.12(e) explains that when a State with primacy for all existing national primary drinking water regulations submits a primacy revision application, the State is considered to have primary enforcement authority for the new or revised regulation while EPA makes a final determination on the application.

Additionally, the Agency is making revisions to § 142.10(e) to reflect the 1996 Amendments by adding examples of emergency situations and to § 142.12(b) by changing the time limitation for adopting new or revised Federal regulations. Finally, the Agency is revising the definition of a *public water system* in both Parts 141 and 142 to codify changes to the statutory definition. The new definition includes certain systems that provide water for human consumption through constructed conveyances other than pipes.

1. Administrative Penalty Authority

Section 1413 of the SDWA sets out the conditions under which States may apply for, and retain, primary enforcement responsibility with respect to PWSs. As amended in 1996, section 1413 now requires States to have administrative penalty authority for all violations of their approved primacy program, unless prohibited by the State constitution. This encompasses applicable requirements in parts 141 and 142 including, but not limited to, NPDWRs, variances and exemptions, and public notification. This includes administrative penalty authority for violations of any State requirements that are more stringent than the analogous Federal requirements on which they are based. However, States are not required to have administrative penalty authority for violations of State requirements that are broader in scope than the federal program, or unrelated to the approved program.

States must have the authority to impose administrative penalties on PWSs serving a population greater than 10,000 individuals in an amount that is not less than $1,000 per day per violation. For PWSs serving a population of 10,000 individuals or less, States must have the authority to impose an administrative penalty that is "adequate to ensure compliance." However, States may establish a maximum limitation on the total

amount of administrative penalties that may be imposed on a PWS per violation.

Statutory Language

Section 1413 of the SDWA provides that a State will have primary enforcement responsibility for PWSs during any period for which the Administrator determines that the State meets the requirements of section 1413(a) as implemented through EPA regulations. One of the new conditions added for primacy is section 1413(a)(6), which requires that a primacy State:

(6) Has adopted authority for administrative penalties (unless the constitution of the State prohibits the adoption of the authority) in a maximum amount—

(A) In the case of a system serving a population of more than 10,000, that is not less than $1,000 per day per violation; and

(B) In the case of any other system, that is adequate to ensure compliance (as determined by the State);

except that a State may establish a maximum limitation on the total amount of administrative penalties that may be imposed on a public water system per violation.

Interpretation of "In a Maximum Amount * * * That is Not Less Than $1,000 Per Day Per Violation"

The first issue for clarification is the meaning of requiring States to have administrative penalty authority "in a maximum amount * * * that is not less than $1,000 per day per violation." Relying on both the legislative history of the 1996 SDWA Amendments and the principles of statutory construction, EPA has interpreted the provision as discussed in the following paragraphs.

The report on Senate Bill (SB)1316 says, in explaining this provision, that States are to adopt administrative penalties of at least $1,000 per day per violation for large systems. Since the language in the House Bill and in the final version of the SDWA amendments is identical to that in SB1316, and there is no additional explanation of this language, the report on SB1316 is a helpful indicator of Congressional intent.

Therefore, it is EPA's position that, in order to have primacy, States must have the authority to impose a maximum penalty per day per violation for systems serving a population greater than 10,000 individuals and this maximum must be $1,000 or greater. It is critical that States have the authority to impose this penalty. However, States are not required to assess this per day per violation penalty for systems serving a population of more than 10,000 individuals. In particular cases, States may assess lesser penalties than the maximum penalty authorized by the State, so long as they retain the authority to impose a penalty of at least $1,000 per day per violation.

A State's penalty authority must be "per day per violation." If a State has authority for administrative penalties up to a specific dollar amount (in total, or as per day, or per violation), but the authority is not expressed as an amount "per day per violation," then the authority is not sufficient to comply with this requirement.

Although not required to do so, a State may establish an administrative penalty cap. If a State establishes a cap, the cap cannot be on the total administrative penalty which may be imposed on the system but may only be on the total which may be imposed on the system "per violation." For example, a State could obtain authority for administrative penalties of $1,000 per day per violation, not to exceed $25,000 for each violation. If a PWS in that State had 3 maximum contaminant level violations, each of which lasted a month, the system could be assessed an administrative penalty of $75,000. (This would be calculated as follows: The PWS had 3 violations at $1,000 per day × 30 days for each violation; thus, the system could be assessed $90,000, if there was no cap. However, because the State has established a cap of $25,000 for each violation, the PWS could only be assessed the maximum for each violation—$25,000 × 3 = $75,000).

Interpretation of "Adequate To Ensure Compliance"

The next area subject to interpretation is what penalty is "adequate to ensure compliance" for systems serving a population of 10,000 or fewer individuals. This provision is designed to give the States flexibility in dealing with the smaller systems. The provision recognizes that some of the smaller systems face special challenges in complying with the requirements of the SDWA and its regulations and may not have the financial capability to pay a large penalty. Moreover, with some of the small and very small systems, a modest penalty can serve as a great deterrent. In addition, assessing modest penalties often requires less burdensome hearing procedures and thus can be more efficient. At the same time, however, it must be remembered that a good portion of the small systems are, in fact, profit-making businesses and therefore should not be permitted to gain an economic advantage through their noncompliance with the law. Given these factors, as well as many others, States must determine, for systems serving a population of 10,000 individuals or less, a level or levels of administrative penalties which will, in their opinion, ensure compliance. The level can be the same as that for the larger systems.

Determination of State Administrative Penalty Authority

As a part of the primacy application review process, EPA will review the State laws and regulations to determine whether the State has the requisite administrative penalty authority or whether its constitution prohibits the adoption of such authority. States must submit copies of their laws and regulations; States that believe that their constitution prohibits administrative penalty authority must submit a copy of their constitution and an interpretation from the State Attorney General. EPA's review will likely also include a request for a State Attorney General to provide an interpretation of the State's authority. The Attorney General's statement will be needed particularly in cases where the State laws or regulations use different language than the SDWA. EPA will also require States to submit a rationale for their determination that the chosen level of administrative penalty authority for PWSs serving a population of 10,000 individuals or less is appropriate. Additionally, EPA may request an explanation from the States on how they plan to use their penalty authority (that is, a penalty policy). In today's rule, EPA is amending 40 CFR 142.11 to clarify the documentation States must provide for EPA's review of State administrative penalty authority.

Process for Review and Approval of State Programs

The process EPA will use to review and approve State programs will vary based on the circumstances. In cases where the State has adequate administrative penalty authority that is already part of an approved primacy program, no formal process under Part 142 is required to approve the program. In situations where either the State has adequate administrative penalty authority but it is not part of an approved primacy program, or where the State administrative penalty authority is not adequate to meet the new requirement, the State must follow the process for primacy program revisions in 40 CFR 142.12.

If or when it becomes clear that a State is not going to obtain the required authority, or if the State is not acting in good faith to obtain the required authority, EPA will seek to begin the primacy withdrawal process under 40

CFR 142.17. There are serious consequences if a State loses primacy, including the loss of Drinking Water State Revolving Fund (DWSRF) monies.

2. Interim Primacy Authority

EPA has added new § 142.12(e) to incorporate the new process identified in the 1996 Amendments for granting primary enforcement authority to States while their applications to modify their primacy programs are under review. Previously, States that submitted these applications did not receive primacy for the changes in their State programs until EPA approved the applications. The new process, which is available only to States that have primacy for every existing national primary drinking water regulation in effect when the new regulation is promulgated, grants interim primary enforcement authority for a new or revised regulation during the period in which EPA is making a determination with regard to primacy for that new or revised regulation. This interim enforcement authority begins on the date of the primacy application submission or the effective date of the new or revised State regulation, whichever is later, and ends when EPA makes a final determination. Interim primacy has no effect on EPA's final determination and States should not assume that their applications will be approved based on this interim primacy.

3. Time Increase for Adopting Federal Regulations

EPA has amended the language in § 142.12(b) to increase the time for a State to adopt new or revised Federal regulations from 18 months to 2 years to reflect section 1413(a)(1) as revised by the 1996 Amendments.

4. Examples of Emergency Circumstances That Require a Plan for Safe Drinking Water

The Agency has added examples of natural disasters to § 142.10(e) to maintain consistency and uniformity with the statutory counterpart section 1413(a)(5), which was revised in the 1996 Amendments.

5. Revision of Public Water System Definition

Public water systems, unless they meet the four criteria enumerated in section 1411 or qualify for a variance or exemption under sections 1415 or 1416, must comply with the national primary drinking water regulations promulgated in 40 CFR Part 141. Before the 1996 Amendments, the SDWA defined a PWS as a system that provided piped water for human consumption to the public and had at least fifteen service connections or regularly served at least twenty-five individuals. The 1996 Amendments expanded the means of delivering water to include not only systems which provide water for human consumption through pipes, but also systems which provide water for human consumption through "other constructed conveyances." In today's rule, EPA codifies this change by amending the definition of "public water system" in §§ 141.2 and 142.2 as well as by adding or clarifying several other definitions.

The 1996 Amendments did not change the connections or users served requirement. However, water suppliers that became PWSs only as a result of the changed definition will not be considered PWSs, subject to SDWA requirements, until after August 5, 1998.

"Service Connection" Exclusions

For systems which only could become PWSs as a result of the broadened definition, the Amendments allow certain connections to be excluded, for purposes of the definition, if the water supplied by that connection meets any of the three criteria enumerated in section 1401(4)(B)(i).

First, a connection is excluded where the water is used exclusively for purposes other than "residential uses." Residential uses consist of drinking, bathing, cooking, or similar uses. Next, a connection may be excluded if the State exercising primary enforcement responsibility or the Administrator determines that "alternative water" to achieve the equivalent level of public health protection afforded by the applicable national primary drinking water regulations is provided for residential or similar uses for drinking and cooking. The third exclusion may apply where the Administrator or the State exercising primary enforcement responsibility determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

"Special Irrigation District" Exemption

A piped water system may be considered a "special irrigation district" if it was in existence prior to May 18, 1994, and provides primarily agricultural service with only incidental residential or similar use. Special irrigation districts are not considered to be PWSs if the system or the residential or similar users of the system comply with the requirements of the alternative water exclusion in section 1401(4)(B)(i)(II) or the treatment exclusion in section 1401(4)(B)(i)(III).

Implementation of the New PWS Definition

Systems newly subject to SDWA regulations under the amended definition of a PWS will not be regulated until August 6, 1998, as provided in section 1401(4)(C) of the SDWA. States with primary enforcement authority must revise their programs within two years from the effective date of this regulation to include waters suppliers that became PWSs only as a result of the new PWS definition. States must follow the process for primacy program revisions in 40 CFR 142.12. To assist States in revising their programs, EPA plans to issue guidance providing a more detailed interpretation of the new definition and the statutory exclusions.

B. Impact of These Revisions

1. Executive Order 12866

Under Executive Order 12866, [58 FR 51,735 (October 4, 1993)] the Agency must determine whether the regulatory action is "significant" and therefore subject to OMB review and the requirements of the Executive Order. The Order defines "significant regulatory action" as one that is likely to result in a rule that may:

(a) 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;

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

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

(d) 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 Executive Order 12866 and is therefore not subject to OMB review.

2. Regulatory Flexibility Act

The Agency has determined that the rule being issued today is not subject to the Regulatory Flexibility Act (RFA), which generally requires an Agency to conduct a regulatory flexibility analysis of any significant impact the rule will

have on a substantial number of small entities. By its terms, the RFA applies only to rules subject to notice and comment rulemaking requirements under the Administrative Procedure Act (APA) or any other statute. Today's rule is not subject to notice and comment requirements under the APA or any other statute because it falls into the interpretative statement exception under APA section 553(b) and because the Agency has found "good cause" to publish without prior notice and comment. *See* section B.8.

3. 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. 1836.01) and a copy may be obtained from Sandy Farmer, OPPE Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M Street, S.W.; Washington, DC 20460 or by calling (202) 260–2740. The information requirements are not effective until OMB approves them.

This information collection is necessary because the SDWA Amendments of 1996 added a new element to the requirements for States to obtain and/or retain primacy for the PWSS program. In order for EPA to determine whether States meet the new administrative penalty authority requirement, States must submit a copy of their legislation authorizing the penalty authority and a description of their authority for administrative penalties that will ensure adequate compliance of systems serving a population of 10,000 individuals or less. In accordance with the procedures outlined in § 142.11(7)(i) and § 142.12 (c)(iii), the State Attorney General must certifiy that the laws and regulations were duly adopted and are enforceable. Alternatively, if a State constitution prohibits assessing administrative penalties, the State must submit a copy of the relevant provision of the constitution as well as an Attorney General's statement confirming that interpretation. Furthermore, as provided in § 142.11(a)(7)(ii), as amended by this rule, and § 142.12(c), EPA may additionally require supplemental statements from the State Attorney General, (such as an interpretation of the statutory language), when the above supplied information is deemed insufficient for a decision.

Collecting and reporting this information will require a total respondent cost burden estimated at $37,954.63 and 696.20 hours. This estimate includes the time for gathering, analyzing, writing, and reporting information. There will be no capital, start-up, or operation and maintenance costs. This data collection does not involve periodic reporting or recordkeeping. Rather, this will be a one time effort of approximately 12 hours and 26 minutes by each of the 56 States who wish to adopt the administrative penalty authority necessary in order to obtain or retain primacy.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing way to comply with any 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. Street; S.W.; Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, N.W.; Washington, DC 20503; marked "Attention: Desk Officer for EPA." Review will be in accordance with the procedures in 5 CFR 1320.10. Comments are requested by June 29, 1998. Include the ICR number in any correspondence.

4. Unfunded Mandates Reform Act and Executive Order 12875

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The UMRA generally excludes from the definition of "Federal intergovernmental mandate" duties that arise from participation in a voluntary federal program. The requirements under section 1413(a) of the SDWA are only mandatory if a State chooses to have primary enforcement responsibility for PWSs. Additionally, today's rule implements requirements specifically set forth by the Congress in sections 1401 and 1413 of the SDWA without the exercise of any discretion by EPA.

In any event, even if this rule were not excluded from the definition of "Federal intergovernmental mandate," EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal

governments, in the aggregate, or the private sector in any one year.

Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Additionally, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments, including tribal governments. Rather, this rule primarily affects State governments. Therefore, this action does not require a small government agency plan under UMRA section 203.

Because this rule imposes no intergovernmental mandate, it also is not subject to Executive Order 12875 (Enhancing the Intergovernmental Partnership).

5. Executive Order 13045—Protection of Children From Environmental Health Risks and Safety Risks

Today's action is not subject to Executive Order 13045 [62 FR 19885 (April 23, 1997)] which requires agencies to identify and assess the environmental health and safety risks of their rules on children. Pursuant to the definitions in section 2–202, Executive Order 13045 only applies to rules that are economically significant as defined under Executive Order 12866 and concern an environmental health or safety risk that may disproportionately affect children. This rule is not economically significant and does not concern a risk disproportionately affecting children.

6. 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 (SBREFA), 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. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates the finding and a brief statement of reasons therefore in the rule) that notice and public procedure thereon are impracticable, unnecessary or contrary to the public interest, shall take effect at such time as the agency promulgating the rule determines. 5 U.S.C. 808(2). As discussed in Section B.8., EPA has made such a good cause finding for this rule, including the reasons therefore, and established an effective date of April 28, 1998. 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 Office 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).

7. National Technology Transfer and Advancement Act

Under section 12(d) of the National Technology Transfer and Advancement Act, the Agency is required to use voluntary consensus standards in its regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, material specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. Where available and potentially applicable voluntary consensus standards are not used by EPA, the Act requires the Agency to provide Congress, through the Office of Management and Budget, an explanation of the reasons for not using such standards. Because this rule does not involve or require the use of any technical standards, EPA does not believe that this Act is applicable to this rule. Moreover, EPA is unaware of any voluntary consensus standards relevant to this rulemaking. Therefore, even if the Act were applicable to this kind of rulemaking, EPA does not believe that there are any "available or potentially applicable" voluntary consensus standards.

8. Administrative Procedure Act

Because this rule merely codifies and interprets a statute, the amended SDWA, it is an "interpretative rule." As a result, it is exempt from the notice and comment requirements for rulemakings under section 553 of the APA (*See* section 553(b)(3)(A)). In addition, because this rule merely codifies statutory requirements and makes clarifying changes to the rules necessary to implement the amended statute, notice and comment is "unnecessary" and thus the Agency has "good cause" to publish this rule without prior notice and comment (APA section 553(b)(3)(B)). For the same reasons, EPA is making the provisions of this rule effective upon promulgation, as authorized under the APA (*See* sections 553(d)(2) and (3)). However, systems newly subject to SDWA regulation under the amended definition will not be regulated until August 6, 1998 as provided in the 1996 Amendments.

List of Subjects in 40 CFR Parts 141 and 142

Environmental protection, Administrative practices and procedures, Intergovernmental relations, Reporting and recordkeeping requirements, Water supply, Indians.

Dated: April 17, 1998.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, the Environmental Protection Agency amends 40 CFR Parts 141 and 142 as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

1. The authority citation for part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

2. In § 141.2 by revising the definitions of *non-community water system* and *public water system* and adding the following definitions in alphabetical order.

§ 141.2 Definitions.

* * * * *

Non-community water system means a public water system that is not a community water system. A non-community water system is either a "transient non-community water system (TWS)" or a "non-transient non-community water system (NTNCWS)."

* * * * *

Public water system or *PWS* means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system."

* * * * *

Service connection, as used in the definition of *public water system*, does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if:

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(2) The State determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(3) The State determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

* * * * *

Special irrigation district means an irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in section 1401(4)(B)(i)(II) or (III).

* * * * *

PART 142—NATIONAL PRIMARY DRINKING WATER REGULATIONS IMPLEMENTATION

1. The authority citation for part 142 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, and 300j–9.

2. In § 142.2 by revising the definition of *public water system* and adding the following definitions in alphabetical order.

§ 142.2 Definitions.

* * * * *

Public water system or *PWS* means a system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year. Such term includes:

Any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system" as defined in § 141.2.

* * * * *

Service connection, as used in the definition of *public water system*, does not include a connection to a system that delivers water by a constructed conveyance other than a pipe if:

(1) The water is used exclusively for purposes other than residential uses (consisting of drinking, bathing, and cooking, or other similar uses);

(2) The Administrator or the State exercising primary enforcement responsibility for public water systems, determines that alternative water to achieve the equivalent level of public health protection provided by the applicable national primary drinking water regulation is provided for residential or similar uses for drinking and cooking; or

(3) The Administrator or the State exercising primary enforcement responsibility for public water systems, determines that the water provided for residential or similar uses for drinking, cooking, and bathing is centrally treated or treated at the point of entry by the provider, a pass-through entity, or the user to achieve the equivalent level of protection provided by the applicable national primary drinking water regulations.

Special irrigation district means an irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in section 1401(4)(B)(i)(II) or (III).

* * * * *

3. In § 142.10 by revising paragraph (e), redesignating paragraph (f) as paragraph (g) and adding paragraph (f) to read as follows:

§ 142.10 Requirements for a determination of primary enforcement responsibility.

* * * * *

(e) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances including, but not limited to, earthquakes, floods, hurricanes, and other natural disasters.

(f)(1) Has adopted authority for assessing administrative penalties unless the constitution of the State prohibits the adoption of such authority. For public water systems serving a population of more than 10,000 individuals, States must have the authority to impose a penalty of at least $1,000 per day per violation. For public water systems serving a population of 10,000 or fewer individuals, States must have penalties that are adequate to ensure compliance with the State regulations as determined by the State.

(2) As long as criteria in paragraph (f)(1) of this section are met, States may establish a maximum administrative penalty per violation that may be assessed on a public water system.

* * * * *

4. In § 142.11 by redesignating paragraph (a)(6) as paragraph (a)(7) and adding new paragraph (a)(6) to read as follows:

§ 142.11 Initial determination of primary enforcement responsibility.

(a) * * *

(6)(i) A copy of the State statutory and regulatory provisions authorizing the executive branch of the State government to impose an administrative penalty on all public water systems, and a brief description of the State's authority for administrative penalties that will ensure adequate compliance of systems serving a population of 10,000 or fewer individuals.

(ii) In instances where the State constitution prohibits the executive branch of the State government from assessing any penalty, the State shall submit a copy of the applicable part of its constitution and a statement from its Attorney General confirming this interpretation.

* * * * *

5. Amend § 142.12, by revising paragraph (b)(1) and by adding paragraph (e) to read as follows:

§ 142.12 Revision of State programs.

* * * * *

(b) * * *

(1) Complete and final State requests for approval of program revisions to adopt new or revised EPA regulations must be submitted to the Administrator not later than 2 years after promulgation of the new or revised EPA regulations, unless the State requests an extension and the Administrator has approved the request pursuant to paragraph (b)(2) of this section. If the State expects to submit a final State request for approval of a program revision to EPA more than 2 years after promulgation of the new or revised EPA regulations, the State shall request an extension of the deadline before the expiration of the 2-year period.

* * * * *

(e) *Interim primary enforcement authority.* A State with an approved primacy program for each existing national primary drinking water regulation shall be considered to have interim primary enforcement authority

with respect to each new or revised national drinking water regulation that it adopts beginning when the new or revised State regulation becomes effective or when the complete primacy revision application is submitted to the Administrator, whichever is later, and shall end when the Administrator approves or disapproves the State's revised primacy program.

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S. 419/P.L. 105–168
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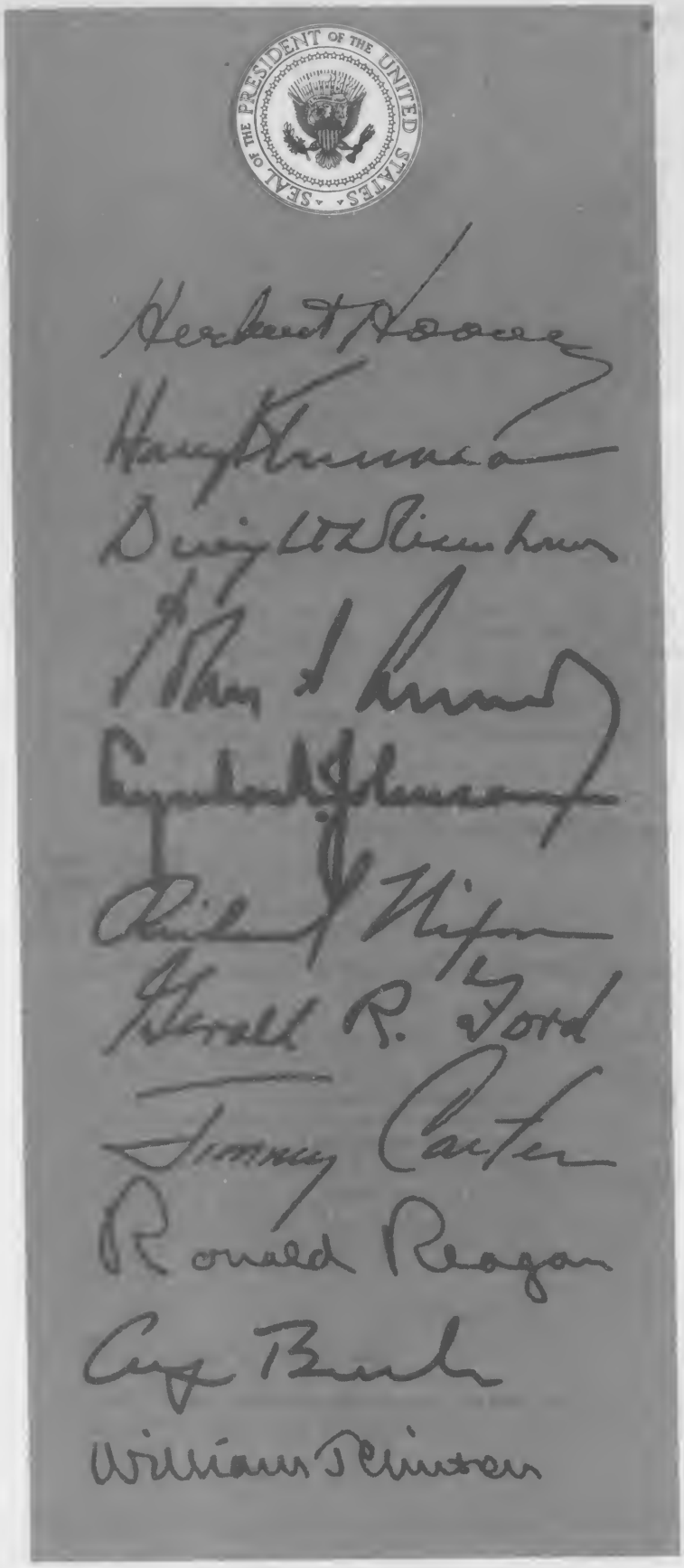

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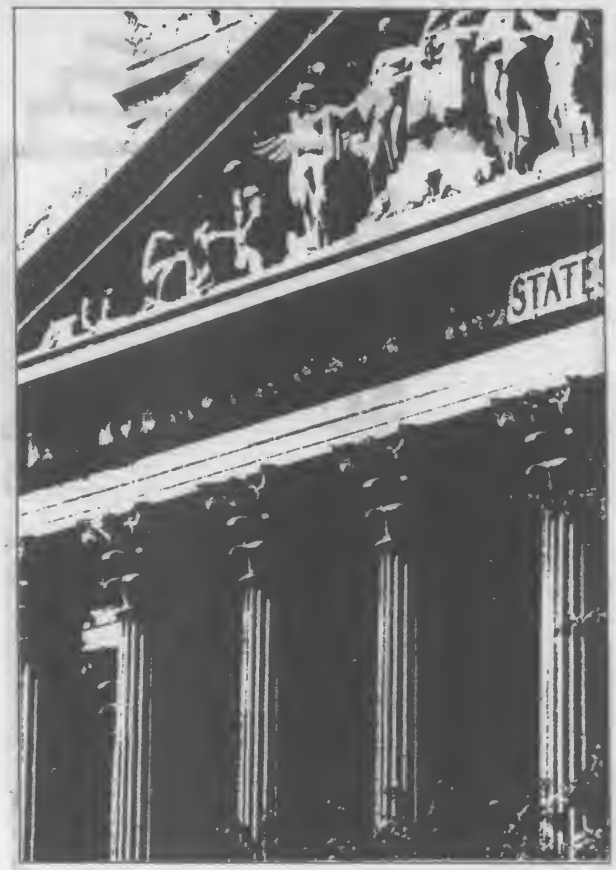

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