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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AI01

Prevailing Rate Systems; Survey Order Month Change for Jefferson, New York, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing a final rule to change the survey order month for the Jefferson, NY, nonappropriated fund (NAF) Federal Wage System (FWS) wage area from March to April beginning with the next full-scale wage survey for the Jefferson wage area in 1998. This change is expected to improve the survey data yield for the Jefferson wage area and to allow the Department of Defense to better balance its wage survey workload.

EFFECTIVE DATE: March 30, 1998.

FOR FURTHER INFORMATION CONTACT: Mark Allen at (202) 606–2848, or send an e-mail message to maallen@opm.gov.

SUPPLEMENTARY INFORMATION: On September 2, 1997, OPM published a proposed rule to change the survey order month for the Jefferson, NY, NAF FWS wage area (62 FR 46221). The proposed rule provided a 30-day period for public comment, during which OPM received no comments.

The Department of Defense, the lead agency for the Jefferson wage area, requested that the survey order month for the Jefferson wage area be changed from March to April beginning with the 1998 full-scale wage survey in the Jefferson wage area. Changing the wage survey order month for the Jefferson wage area will allow the local wage survey committee to avoid conducting local wage surveys during inclement March weather and will thereby improve wage survey participation and data yield. In addition, the new survey month will allow the Department of Defense to better balance its wage survey workload by moving wage surveys in the Jefferson wage area from a heavy workload month to a light workload month. The April survey order month will delay the Jefferson wage schedule effective date by only 1 month.

The Federal Prevailing Rate Advisory Committee reviewed this recommendation and by consensus recommended approval.

Pursuant to section 553(d)(3) of title 5, United States Code, I find that good cause exists to make this regulation effective in less than 30 days. The regulation is being made effective immediately because of the need to conduct a full scale wage survey in the Jefferson wage area in April rather than in March 1998.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix B to Subpart B of Part 532—[Amended]

2. Appendix B to subpart B is amended under the State of New York by revising the beginning month of survey listing for the Jefferson wage area from March to April.

[FR Doc. 98–8204 Filed 3–27–98; 8:45 am]
BILLING CODE 6325–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D, Docket No. R–0988]

Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System is amending its Regulation D, Reserve Requirements of Depository Institutions, issued pursuant to section 19 of the Federal Reserve Act, in order to move from the current system of contemporaneous reserve maintenance for institutions that are weekly deposits reporters to a system under which reserves are maintained on a lagged basis by such institutions. Under a lagged reserve maintenance system, the reserve maintenance period for a weekly deposits reporter will begin thirty days after the beginning of a reserve computation period. Under the current system, the reserve maintenance period begins only two days after the beginning of a reserve computation period.

DATES: *Effective date:* The final rule will be effective on July 30, 1998.

Applicability date: The final rule will be applicable as of the maintenance period beginning July 30, 1998. For that maintenance period, required reserves and the vault cash that can be used to meet reserve requirements will be based on the computation period that begins on June 30, 1998.

FOR FURTHER INFORMATION CONTACT: William Whitesell, Section Chief, Money and Reserves Projections Section, Division of Monetary Affairs (202/452–2967); Oliver Ireland, Associate General Counsel, (202/452–3625) or Lawranne Stewart, Senior Attorney (202/452–3625), Legal Division. For the hearing impaired only, contact Telecommunications Device for the Deaf (TDD), Diane Jenkins (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

The Board of Governors of the Federal Reserve System (Board) published a notice of proposed rulemaking in the **Federal Register** on November 12, 1997 (62 FR 60671) that solicited comments

on proposed amendments to its Regulation D, Reserve Requirements of Depository Institutions (12 CFR Part 204). Under the proposal, a lag of thirty days (two full maintenance periods) would be introduced between the beginning of a reserve computation period and the beginning of the maintenance period during which reserves for that computation period must be maintained. The reserve maintenance period therefore would not begin until seventeen days after the end of the computation period. The proposal also provides for the same two-period lag in the computation of the vault cash to be applied to satisfy reserve requirements.

Providing a two-period lag for both required reserves and applied vault cash will allow the Federal Reserve, as well as depository institutions, to calculate the level of required reserve balances before the beginning of the maintenance period. It has become increasingly difficult to estimate the quantity of balances that depositories must hold at Reserve Banks to meet reserve requirements in the concurrent maintenance period, largely because of the implementation of retail sweep programs by many institutions. In addition to improving the ability of depository institutions and the Federal Reserve to estimate and project required reserve balances, the increased lag also should reduce the level of resources that must be devoted to these tasks.

The Board received a total of thirty written comments on its November proposal. Comments were received from eleven banking organizations, one savings bank, eight depository industry associations, seven Reserve Banks, a university professor, and a member of a research institution; the comment list also contains a Board staff summary of a briefing of Reserve Bank presidents on the issue.

Four Reserve Banks, all but one of the depository institutions, and all but one of the depository industry associations expressed support for the proposal. These commenters agreed that lagged reserve requirements would provide earlier, more accurate information about the level of required reserves. The improvement in information would make depositories better able to manage their reserve positions, and would allow savings on the resources now used to estimate reserve needs. Better information about the required reserve balances of the banking system as a whole also would facilitate the implementation of monetary policy by the Open Market Desk.

While a majority of the commenters supported the proposal, some commenters, including a depository institution, three Reserve Banks, and two individuals were opposed to it.

One small bank opposed lagged reserve requirements (LRR) because of the seasonal surge in deposit inflows it experiences during a single week in both May and November. With LRR, it would have to wait "three weeks to keep the required reserves." However, it should not be too difficult for this institution to find a means of investing its excess reserves temporarily, and then, if needed, borrow funds from its correspondent or from market sources in order to meet reserve requirements. If such funding is unavailable, the institution presumably would be eligible to apply for a loan from the discount window.

One Reserve Bank argued that, before abandoning contemporaneous reserve requirements, the Federal Reserve should explore the possibility of reducing funds rate volatility by conducting multiple open market operations in a single day. Careful consideration has indeed been given to this idea. For the first time since the 1970s, the Open Market Desk in 1997 began conducting multiple repurchase agreement operations within a day, when needed. In practice, however, such operations cannot be undertaken very late in the day, when much of the volatility in the funds rate arises, because the securities wire for book entry transactions closes at 3:30 p.m., and because of a limited availability of collateral for repurchase agreement transactions late in the business day.

Other objections to a shift to LRR were expressed by three Reserve Banks, a university professor, and a member of a research institution. Some argued that LRR would make it more difficult to return to a regime of monetary targeting. However, there appears to be only a remote chance that the FOMC would move away from its current eclectic policymaking, involving review of a wide variety of macroeconomic indicators, in order to return to a regime of strict monetary targeting. The monetary aggregates have not proved to be sufficiently reliable to perform such a role. M1, the aggregate against which reserves currently are required, is no longer a candidate for monetary targeting in part because of its heightened interest sensitivity following the deregulation of deposit interest rates in the 1980s, and also because of uncertainties related to retail sweep programs and overseas demand for United States currency. M2 has also suffered from an unstable relationship to income and interest rates in this decade. Broad monetary aggregates like M2 may again become useful as indicators, but they are not likely to be employed as strictly targeted variables to be closely controlled over short time periods.

Even if M2 growth were used as a strict target for monetary policy, a federal funds rate instrument would be more appropriate than a reserve quantity instrument to hit that target. The reason is that the bulk of M2 is not by law subject to reserve requirements, and as a result, its relationship to reserve quantities is quite loose. With a federal funds rate instrument, rather than a reserve quantity instrument, there is no advantage to contemporaneous reserve requirements; in fact, monetary policy is more easily implemented with LRR.

Some of those objecting to LRR emphasized the advantage that contemporaneous requirements have over LRR in a regime of both strict monetary targeting and use of predetermined reserve quantities to hit those monetary targets. It is indeed the case that contemporaneous reserve requirements have a timing advantage compared with LRR in this type of operating regime, although the chance of returning to such a regime appears remote. In particular, when using a reserve quantity instrument, the response of short-term interest rates to unexpected changes in money demand is quicker by a week or two with contemporaneous requirements.

However, as one Reserve Bank argues, this advantage for contemporaneous requirements is rather small: "[E]xperience suggests that, in practice, the deposit adjustment mechanism * * * would be essentially the same under both contemporaneous accounting and the lag proposed by the Board." In particular, "transaction deposits do not appear to respond to changes in cost within a time frame as short as the current, two-week maintenance period."

While contemporaneous requirements would have an advantage under monetary targeting with a reserve quantity instrument, LRR does not preclude such a regime, as one Reserve Bank mentioned. In fact, reserve requirements were lagged during the 1979-to-1982 period, when the Federal Reserve used a nonborrowed reserve instrument to hit targets for intermediate-term M1 growth.

One Reserve Bank commented that the Federal Reserve should employ a system that helps in the implementation of monetary policy under the operating regime it is using at the time. And LRR is "more consistent with our current regime." If the Federal Reserve returned

"to reserve targeting at some point in the future and * * * desired a slightly more rapid response of interest rates to variations in the money stock," it could then reinstitute contemporaneous requirements.

Another Reserve Bank commented that, while the likelihood of returning to a reserve-based operating regime was remote, "the Federal Reserve would have a much easier time converting from lagged to contemporaneous reserve accounting than it did in the past," because "[o]ur statistical processing systems have become much more sophisticated and flexible." Accounting and information systems at banks and thrifts have also improved substantially in recent years, as pointed out by some commenters, and therefore depositories should also find it less difficult than in 1984 to return to contemporaneous requirements, if it became necessary.

In summary, while contemporaneous reserve requirements would have an advantage over LRR in a situation in which the FOMC both returned to monetary targeting and switched from an interest rate to a reserve quantity operating instrument, the probability of that situation occurring appears to be exceedingly small and the advantage would be modest.[1] Under the operating procedures employed currently and likely to be employed prospectively by the Federal Reserve, LRR is preferable to contemporaneous reserve requirements for the purpose of monetary policy implementation. Lagged requirements would also allow resource cost savings both for the Federal Reserve and for depositories, and would permit depositories to cut some of the financial losses owing to the holding of reserve balances that are at times insufficient and at times too high. For these reasons, the Board is implementing lagged reserve requirements as proposed.

Some of the comments received included suggestions that were unrelated to the issue of lagged versus contemporaneous reserve requirements. One Reserve Bank argued that abolishing reserve requirements, "would free up resources spent by depository institutions on sweep accounts and other devices that minimize reserve requirements." This is a legislative issue, however, rather than an issue for a Board decision.

A major clearinghouse did not appear to object to lagged reserve requirements, but recommended that, to reduce uncertainties about reserves positions, the Federal Reserve should restrict the last fifteen minutes of trading on the funds wire each day to direct trades among depositories for their own account at a Reserve Bank. The Board will continue to review this and other ideas for reducing volatility in the market for reserves in order to determine whether any further adjustments in its procedures are appropriate.

A banking association argued that the implementation of lagged reserve requirements should allow elimination of the costly "Daily Advance Report of Deposits," which collects deposit and vault cash data daily from large banks and thrifts. This report is indeed used to estimate the level of required reserve balances in the current maintenance period, and with lagged requirements, it would no longer be needed for this purpose. However, the report also provides an early indication of the weekly changes in the monetary aggregates. For this reason, the Board does not plan to eliminate this report at the present time. In the future, however, the Board could evaluate whether this report from large depositories and a similar report from a sample of small banks might be trimmed to reduce burdens on depository institutions and the Federal Reserve.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires an agency to publish a final regulatory flexibility analysis (5 U.S.C. 604) containing: (1) A succinct statement of the need for and the objectives of the rule; and (2) a summary of the issues raised by the public comments, the agency's assessment of the issues, and a statement of the changes made in the final rule in response to the comments; (3) a description of significant alternatives to the rule that would minimize the rule's economic impact on small entities and reasons why the alternatives were rejected.

As discussed above, the purpose of the amendment is to improve the ability of the Federal Reserve and depository institutions to estimate accurately the quantity of reserves that will be needed to meet reserve requirements. The amendments will affect only institutions that are weekly deposits reporters, which generally include depository institutions that have total deposits of $75 million or greater, as only these institutions currently are required to maintain reserves on a contemporaneous basis.[2] The amendments will not increase reporting or recordkeeping requirements associated with Regulation D for institutions that are weekly reporters, but will significantly simplify compliance with the rule for these institutions. The amendments therefore will not increase regulatory burden on small institutions generally.

For those small institutions that are affected, the amendments generally will reduce regulatory burden. Although a few institutions with large seasonal variations in their deposit bases may experience a greater temporary mismatch between their levels of maintained versus required reserves, these mismatches can be managed without undue burden through the money markets in the same manner that depository institutions currently manage their reserve positions.

As discussed above, the Board also has considered and continues to consider other methods for reducing uncertainties in the market for reserves. The Board recognizes that the amendments considered here do not address all issues related to such uncertainties, but believes that the adoption of a lagged reserve maintenance system will provide a significant improvement in information regarding the level of required reserve balances for both the Federal Reserve and for depository institutions.

List of Subjects in 12 CFR Part 204

Banks, banking, Federal Reserve System, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Board is amending part 204 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 371a, 461, 601, 611, and 3105.

2. In § 204.3, paragraph (c) is revised to read as follows:

§ 204.3 Computation and maintenance.

* * * * *

(c) *Computation of required reserves for institutions that report on a weekly basis.* (1) Required reserves are

[1] Should the Federal Reserve determine that effective monetary policy required that a reserve instrument be employed to hit a money supply target, it could consider whether the shorter lag of contemporaneous reserve requirements would again be useful; it would need also to consider whether to ask Congress for permission to impose reserve requirements on personal time and savings deposits in order to better align required reserves with the monetary aggregate most likely to be targeted, M2.

[2] While weekly reporters that are Edge or Agreement corporations or U.S. branches or agencies of a foreign bank may have deposits of less than $75 million, the deposits of these entities represent only a portion of the total deposits of the larger organizations to which they belong.

computed on the basis of daily average balances of deposits and Eurocurrency liabilities during a 14-day period ending every second Monday (the computation period). Reserve requirements are computed by applying the ratios prescribed in § 204.9 to the classes of deposits and Eurocurrency liabilities of the institution. In determining the reserve balance that is required to be maintained with the Federal Reserve, the average daily vault cash held during the computation period is deducted from the amount of the institution's required reserves.

(2) The reserve balance that is required to be maintained with the Federal Reserve shall be maintained during a 14-day period (the "maintenance period") that begins on the third Thursday following the end of a given computation period.

* * * * *

By order of the Board of Governors of the Federal Reserve System, March 24, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–8190 Filed 3–27–98; 8:45 am]

BILLING CODE 6210–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

Disaster Loan Program

AGENCY: Small Business Administration (SBA).

ACTION: Final rule.

SUMMARY: Under this rule, an SBA disaster loan borrower can request an increase in a disaster loan within two years after the loan was approved. The increase must be used to cover eligible damages resulting from events that occurred after the loan was approved and were beyond the borrower's control. Under the rule, the SBA Associate Administrator for Disaster Assistance can waive the two year limit because of extraordinary circumstances.

DATES: This rule is effective March 30, 1998.

FOR FURTHER INFORMATION CONTACT: Bernard Kulik, 202/205–6734.

SUPPLEMENTARY INFORMATION: SBA makes thousands of physical and economic injury disaster loans to repair or replace damaged property or to help a business recover from economic injury. Borrowers must use such loans only to help them recover from the effects of a specific disaster. Borrowers may request increases in their loans after the initial disaster loans were made and, where appropriate, SBA will approve the request. On November 25, 1997, SBA published a notice of proposed rulemaking (62 FR 62707), to define the circumstances under which a borrower could request an increase and to limit the time period for the request to two years. The SBA Associate Administrator for Disaster Assistance (AA/DA) has the authority to waive the two year limit for extraordinary and unforeseeable circumstances. SBA received no comments from the public on the proposed rule. The final rule is identical to the proposed rule.

Under the rule, a borrower of a disaster loan (whether physical or economic injury) can request an increase in the loan amount if the eligible cost of repair or replacement of damages increases because of events occurring after the loan approval that were beyond the borrower's control. For example, a borrower can request an increase of a physical disaster loan before the repair, renovation or reconstruction is completed if hidden damage is discovered or if official building codes changed since SBA approved the physical disaster loan. With respect to economic injury disaster loans, borrowers can request increases in working capital if they cannot resume business activity as quickly as planned because of events beyond their control. These examples, while not all inclusive, support a borrower's request for an increase in the amount of a disaster loan. These kinds of events usually will be apparent within two years after SBA approves a disaster loan. However, in extraordinary circumstances, the rule permits the AA/DA to waive the two year limitation.

Compliance With Executive Orders 12612, 12778, and 12866, the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), and the Paperwork Reduction Act (44 U.S.C. Ch. 35)

SBA certifies that this rule does not constitute a significant rule within the meaning of Executive Order 12866 and does not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* It is not likely to have an annual economic effect of $100 million or more on the economy, result in a major increase in costs or prices, or have a significant adverse effect on competition or the United States economy.

For purposes of the Paperwork Reduction Act, 44 U.S.C. Ch. 35, SBA certifies that this rule contains no new reporting or recordkeeping requirements.

For purposes of Executive Order 12612, SBA certifies that this proposed rule has no federalism implications warranting the preparation of a Federalism Assessment.

For purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that Order.

(Catalog of Federal Domestic Assistance Programs, No. 59.012 and 59.008)

List of Subjects in 13 CFR Part 123

Disaster assistance, Loan programs-business, Small businesses.

Accordingly, pursuant to the authority contained in section 5(b)(6) of the Small Business Act (15 U.S.C. 634(b)(6)), SBA amends part 123, chapter I, title 13, Code of Federal Regulations, as follows:

PART 123—DISASTER LOAN ASSISTANCE

1. The authority citation for part 123 continues to read as follows:

Authority: 15 U.S.C. 634(b)(6), 636(b), 636(c) and 636(f); Pub. L. 102–395, 106 Stat. 1828, 1864; and Pub. L. 103–75. 107 Stat. 739.

2. Sections 123.18, 123.19 and 123.20 are added to read as follows:

§ 123.18 Can I request an increase in the amount of a physical disaster loan?

SBA will consider your request for an increase in your loan if you can show that the eligible cost of repair or replacement of damages increased because of events occurring after the loan approval that were beyond your control. An eligible cost is one which is related to the disaster for which SBA issued the original loan. For example, if you discover hidden damage within a reasonable time after SBA approved your original disaster loan and before repair, renovation, or reconstruction is complete, you may request an increase. Or, if applicable building code requirements were changed since SBA approved your original loan, you may request an increase in your loan amount.

123.19 May I request an increase in the amount of an economic injury loan?

SBA will consider your request for an increase in the loan amount if you can show that the increase is essential for your business to continue and is based on events occurring after SBA approved your original loan which were beyond your control. For example, delays may have occurred beyond your control which prevent you from resuming your normal business activity in a reasonable time frame. Your request for an increase in the loan amount must be related to the disaster for which the SBA

economic injury disaster loan was originally made.

§ 123.20 How long do I have to request an increase in the amount of a physical disaster loan or an economic injury loan?

You should request a loan increase as soon as possible after you discover the need for the increase, but not later than two years after SBA approved your physical disaster or economic injury loan. After two years, the SBA Associate Administrator for Disaster Assistance (AA/DA) may waive this limitation after finding extraordinary and unforeseeable circumstances.

Dated: March 20, 1998.

Aida Alvarez,

Administrator.

[FR Doc. 98–8245 Filed 3–27–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–ANE–16–AD; Amendment 39–10420; AD 98–07–02]

RIN 2120–AA64

Airworthiness Directives; CFM International CFM56–2, –3, –3B, and –3C Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to CFM International CFM56–2, –3, –3B, and –3C series turbofan engines. This action requires the removal from service of certain No. 3 bearing rear stationary air/oil seals, replacement with serviceable parts, and the installation of retention bushings. This action also requires the removal from service of high pressure compressor rotor (HPCR) stage 1–2 spools that have contacted the outer cone of the seal. This amendment is prompted by several reports of outer cone separation of the No. 3 bearing rear stationary air/oil seal. The actions specified in this AD are intended to prevent rubs between the outer cone of the No. 3 bearing rear stationary air/oil seal and the HPCR stage 1–2 spool, which could result in a potential uncontained failure of the HPCR stage 1–2 spool, and damage to the aircraft.

DATES: Effective March 30, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of March 30, 1998.

Comments for inclusion in the Rules Docket must be received on or before May 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–ANE–16–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: "9-ad-engineprop@faa.dot.gov". Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. This information may be examined at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Ganley, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7138; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) has received 26 reports where the inner and outer cones of the No. 3 bearing rear stationary air/oil seal have separated on CFM International CFM56–2, –3, –3B, and –3C series turbofan engines. The seal consists of two composite cones which are bonded together with an adhesive. Investigation revealed that the adhesive used on certain seals have less bonding capability than required. When the seal debonds, the outer cone moves aft and allows oil to migrate into the high pressure compressor rotor (HPCR) flowpath, which may result in oil fumes in the cabin. As the seal continues to move aft, the outer cone contacts the bore of the stage 1 disk of the HPCR stage 1–2 spool. New retention bushings exist, that when installed, will preclude a separated seal from contacting the HPCR stage 1–2 spool. This condition, if not corrected, could result in rubs between the outer cone of the No. 3 bearing rear stationary air/oil seal and the HPCR stage 1–2 spool, which could result in a potential uncontained failure of the HPCR stage 1–2 spool, and damage to the aircraft.

The FAA has reviewed and approved the technical contents of CFM International CFM56–2 Service Bulletin (SB) No. 72–825 and CFM56–3/–3B/–3C SB No. 72–856, both dated January 23, 1998, that describes procedures for removal from service of certain HPCR stage 1–2 spools from engines that have documented rubs on the stage 1 disk bore due to contact with the outer cone of the No. 3 bearing rear stationary air/oil seal. In addition, the FAA has reviewed and approved the technical contents of CFM International CFM56–2 SB No. 72–823, dated August 12, 1997, and CFM56–3/–3B/–3C SB No. 72–855, Revision 1, dated February 9, 1998, that describes procedures for installation of the No. 3 bearing rear stationary air/oil seal retention bushings.

Since an unsafe condition has been identified that is likely to exist or develop on other engines of the same type design, this AD is being issued to prevent rubs between the outer cone of the No. 3 bearing rear stationary air/oil seal and the HPCR stage 1–2 spool, which could result in a potential uncontained failure of the HPCR stage 1–2 spool. This AD requires the removal from service, within 15 days after the effective date of this AD, of certain No. 3 bearing rear stationary air/oil seals, replacement with serviceable parts, and the installation of retention bushings. This AD also requires the removal from service of HPCR stage 1–2 spools that have contacted the outer cone of the seal at the next engine shop visit after the effective date of this AD, or prior to accumulating 2,000 cycles in service (CIS) since the engine shop visit that first confirmed the rub event. The 2,000 CIS interval was established based on an extensive test program on the CFM56–5 series engine. The compliance end-date was determined based upon risk assessment and parts availability. The actions are required to be accomplished in accordance with the SBs described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or

arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–ANE–16–AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–07–02 CFM International: Amendment 39–10420. Docket 98–ANE–16–AD.

Applicability: CFM International CFM56–2, –3, –3B, and –3C series turbofan engines installed on, but not limited to, McDonnell Douglas DC–8 series and Boeing 737 series aircraft.

Note 1: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 as indicated, unless accomplished previously.

To prevent rubs between the outer cone of the No. 3 bearing rear stationary air/oil seal and the high pressure compressor rotor (HPCR) stage 1–2 spool, which could result in a potential uncontained failure of the HPCR stage 1–2 spool, and damage to the aircraft, accomplish the following:

(a) For CFM International CFM56–2 series engines, with high pressure compressor rotor (HPCR) stage 1–2 spool, Part Number (P/N) 9992M60G07, with part Serial Number (S/N) listed in CFM56–2 Service Bulletin (SB) No. 72–825, dated January 23, 1998, installed, accomplish the following:

(1) Remove the HPCR stage 1–2 spool from service at the next engine shop visit after the effective date of this AD, or prior to accumulating 2,000 cycles in service (CIS) since the engine shop visit that first confirmed the rub event, whichever occurs first, in accordance with CFM International CFM56–2 SB No. 72–825, dated January 23, 1998, and replace with a serviceable HPCR stage 1–2 spool.

(2) Install No. 3 bearing rear air/oil seal retention bushings in accordance with CFM International CFM56–2 SB No. 72–823, dated August 12, 1997.

(b) For CFM International CFM56–3, –3B, and –3C series engines, with HPCR stage 1–2 spool, P/N 1589M66G02, with part S/Ns listed in CFM International CFM56–3/–3B/–3C SB No. 72–856, dated January 23, 1998, installed, accomplish the following:

(1) Remove the HPCR stage 1–2 spool from service at the next engine shop visit after the effective date of this AD, or prior to accumulating 2,000 CIS since the engine shop visit that first confirmed the rub event, whichever occurs first, in accordance with CFM56–3/–3B/–3C SB No. 72–856, dated January 23, 1998, and replace with a serviceable HPCR stage 1–2 spool.

(2) Install No. 3 bearing rear air/oil seal retention bushings in accordance with CFM International CFM56–3/–3B/–3C SB No. 72–855, Revision 1, dated February 9, 1998.

(c) For CFM56–3, –3B, and –3C engines, having any of the following engine S/Ns: 856692, 856709, 856713, 856799, 856673, 856691, 856694, 856696, 856697, 856746, 856780, 857669, 857685, 857686, 857704, and 859115; accomplish the following within 15 days after the effective date of this AD:

(1) Remove from service No. 3 bearing rear stationary air/oil seal, P/N 1663M91G03, and replace with a serviceable No. 3 bearing rear stationary air/oil seal. No. 3 bearing rear stationary air/oil seals removed in accordance with this paragraph are unserviceable.

(2) Install No. 3 bearing rear air/oil seal retention bushings in accordance with CFM International CFM56–3/–3B/–3C SB No. 72–855, Revision 1, dated February 9, 1998.

(d) For the purpose of this AD, the following definitions apply:

(1) A shop visit is defined as the induction of an engine into the shop for any maintenance.

(2) A serviceable HPCR stage 1–2 spool is defined as a spool without a rub or scratch indication.

(3) A serviceable No. 3 bearing rear stationary air/oil seal is defined as a new seal, P/N 1663M91G03, that is not identified by S/N in Table 1 of this AD.

TABLE 1.—NO. 3 BEARING REAR STATIONARY AIR/OIL SEAL S/NS

[P/N 1663M91G03]

CTD81631	CTD81907	CTD81908	CTD81998
CTD82004	CTD82132	CTD82208	CTD82210

TABLE 1.—NO. 3 BEARING REAR STATIONARY AIR/OIL SEAL S/NS—Continued

[P/N 1663M91G03]

CTD82212	CTD82213	CTD82271	CTD82295
CTD82297	CTD82298	CTD82300	CTD82304
CTD82457	CTD82759	CTD82766	CTD82767
CTD82788	CTD82817	CTD82822	CTD82854
CTD82855	CTD82856	CTD82857	CTD82859
CTD82962	CTD83232	CTD83474	CTD83837
CTD83839	CTD84100	CTD84138	CTD84140
CTD84141	CTD84143	CTD84144	CTD84145
CTD84148	CTD84203	CTD84206	CTD84207
CTD84258	CTD84262	CTD84360	CTD84363
CTD84604	CTD84712	CTD84741	CTD85147
CTD85148	CTD85149	CTD85161	CTD85162
CTD85166	CTD85168	CTD85169	CTD85170
CTD85172	CTD85348	CTD85349	CTD85351
CTD85352	CTD85353	CTD85354	CTD85355

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

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

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

(g) The actions required by this AD shall be done in accordance with the following CFM International SBs:

Document No.	Pages	Revision	Date
CFM56–2, SB No. 72–823 ..... Total pages: 12.	1–12	Original	August 12, 1997.
CFM56–2, SB No. 72–825 ..... Total pages: 7.	1–7	Original	January 23, 1998.
CFM56–3/–3B/–3C, SB No. 72–856 ..... Total pages: 8.	1–8	Original	January 23, 1998.
CFM56–3/–3B/–3C, SB No. 72–855 ..... Total pages: 16.	1–16	1	February 9, 1998.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from CFM International, Technical Publications Department, 1 Neumann Way, Cincinnati, OH 45215; telephone (513) 552–2981, fax (513) 552–2816. Copies may be inspected at the FAA, New England Region, Office of Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on March 30, 1998.

Issued in Burlington, Massachusetts, on March 17, 1998.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 98–7560 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–306–AD; Amendment 39–10423; AD 98–07–05]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires replacement of the main landing gear (MLG) trunnion fittings with reinforced trunnion fittings. This amendment is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent collapse of the MLG due to fatigue cracking of the MLG trunnion fittings.

DATES: Effective May 4, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 4, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal

Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on January 22, 1998 (63 FR 3272). That action proposed to require replacement of the main landing gear (MLG) trunnion fittings with reinforced trunnion fittings.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 3 Saab Model SAAB 2000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 80 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $14,400, or $4,800 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–07–05 Saab Aircraft AB: Amendment 39–10423. Docket 97–NM–306–AD.

Applicability: Model SAAB 2000 series airplanes having serial numbers –003 through –040 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent collapse of the main landing gear (MLG) due to fatigue cracking of the MLG trunnion fittings, accomplish the following:

(a) Prior to the accumulation of 12,000 total flight cycles, or within 100 flight cycles after the effective date of this AD, whichever occurs later, replace the MLG trunnion fittings with reinforced trunnion fittings in accordance with Saab Service Bulletin 2000–57–010, dated February 25, 1997.

(b) As of the effective date of this AD, no person shall install any MLG trunnion fitting having part number 7357451–503 or –504 on any airplane.

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

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

(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) The actions shall be done in accordance with Saab Service Bulletin 2000–57–010, dated February 25, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Saab Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–108, dated February 27, 1997.

(f) This amendment becomes effective on May 4, 1998.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8132 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–163–AD; Amendment 39–10424; AD 98–07–06]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146–100A, –200A, and –300A, and Model Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace

Model BAe 146–100A, –200A, and –300A, and Model Avro 146–RJ series airplanes, that requires repetitive inspections of the attachment brackets between the horizontal and vertical stabilizers to detect intergranular corrosion, and follow-on actions. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct reduced structural integrity of the stabilizer brackets due to corrosion, which could result in reduced controllability of the airplane.

DATES: Effective May 4, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 4, 1998.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146–100A, –200A, and –300A, and Model Avro 146–RJ series airplanes was published in the **Federal Register** on January 29, 1998 (63 FR 4404). That action proposed to require repetitive inspections of the attachment brackets between the horizontal and vertical stabilizers to detect intergranular corrosion, and follow-on actions.

Comments

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

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 40 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $2,400, or $60 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

98–07–06 British Aerospace Regional Aircraft Limited [Formerly British Aerospace Regional Aircraft Limited, Avro International Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited]: Amendment 39–10424. Docket 97–NM–163–AD.

Applicability: Model BAe 146–100A, –200A, and –300A, and Model Avro 146–RJ series airplanes; certificated in any category; having the following constructors numbers:

Model	Constructors numbers
BAe 146–100A, –200A, and –300A.	All.
Avro 146–RJ70/70A ..	All up to and including E1267.
Avro 146–RJ85/85A ..	All up to and including E2300.
Avro 146–RJ100/100A.	All up to and including E3301.

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 as indicated, unless accomplished previously.

To detect and correct reduced structural integrity of the stabilizer attachment brackets due to corrosion, which could result in reduced controllability of the airplane, accomplish the following:

(a) Perform an inspection to detect corrosion of the attachment brackets between the horizontal and vertical stabilizers, in accordance with British Aerospace Service Bulletin SB.55–15, dated April 14, 1997, at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable. Thereafter, repeat the inspection at intervals not to exceed 12,000 flight cycles or 4 years after the initial inspection, whichever occurs first.

(1) For Model BAe 146–100A, –200A, and –300A series airplanes having constructors numbers identified in paragraph D.(1)(a) of the Planning Information section of the service bulletin: Inspect within 20 months after the effective date of this AD.

(2) For Model BAe 146–100A, –200A, and –300A series airplanes having constructors numbers identified in paragraph D.(1)(b) of the Planning Information section of the service bulletin: Inspect within 32 months after the effective date of this AD.

(3) For Model BAe 146–100A, –200A, and –300A series airplanes and Avro 146–RJ70A, –85A, and –100A airplanes having constructors numbers identified in paragraph D.(1)(c) of the Planning Information section of the service bulletin: Inspect within 44 months after the effective date of this AD.

(b) If no corrosion is detected, prior to further flight, restore the original protective treatment and apply additional surface protection to the attachment brackets, in accordance with British Aerospace Service Bulletin SB.55–15, dated April 14, 1997.

(c) If any corrosion is detected and it is accessible, prior to further flight, blend out the corrosion, re-protect the blended areas, and apply additional surface protection to the attachment brackets in accordance with British Aerospace Service Bulletin SB.55–15, dated April 14, 1997.

(d) If any corrosion is detected and it is not accessible, or if, after blending, the damage to the attachment brackets is found to be outside the limits identified in British Aerospace Service Bulletin SB.55–15, dated April 14, 1997, prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

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

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

(f) 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.

(g) The actions shall be done in accordance with British Aerospace Service Bulletin SB.55–15, dated April 14, 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 AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 001–04–97 (undated).

(h) This amendment becomes effective on May 4, 1998.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8131 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–108–AD; Amendment 39–10422; AD 98–07–04]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Dornier Model 328–100 series airplanes, that requires a one-time inspection for discrepancies of certain engine control cables, and replacement of the cables with new or serviceable control cables, if necessary. It also requires modification of the cable fairleads on the nose rib firewall. Additionally, this amendment requires modification of the mounting brackets of the control cable pulleys in the pulley box. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent chafing of engine control cables, which could cause the cables to break and result in loss of engine control and consequent reduced controllability of the airplane.

DATES: Effective May 4, 1998.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 4, 1998.

ADDRESSES: The service information referenced in this AD may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes was published in the **Federal Register** on January 22, 1998 (63 FR 3270). That action proposed to require a one-time inspection for discrepancies of certain engine control cables, and replacement of the cables with new or serviceable control cables, if necessary. That action also proposed to require modification of the cable fairleads on the nose rib firewall. Additionally, that action proposed to require modification of the mounting brackets of the control cable pulleys in the pulley box.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 59 Dornier Model 328–100 series airplanes of U.S. registry will be affected by this AD.

The actions specified in Dornier Service Bulletin SB–328–76–152 will be required to be accomplished on 56 Dornier Model 328–100 series airplanes of U.S. registry. It will take approximately 4 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts will be provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of this action on the 56 affected U.S.-registered airplanes is estimated to be $13,440, or $240 per airplane.

The actions specified in Dornier Service Bulletin SB–328–76–168 will be required to be accomplished on 29 Dornier Model 328–100 series airplanes of U.S. registry. It will take approximately 12 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts will be

provided by the manufacturer at no cost to operators. Based on these figures, the cost impact of this action on the 29 affected U.S.-registered airplanes is estimated to be $20,880, or $720 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive: 98–07–04 DORNIER: Amendment 39–10422. Docket 97-NM–108-AD.

Applicability: Model 328–100 series airplanes; as listed in Dornier Service Bulletins SB–328–76–152 and SB–328–76–168, both dated May 6, 1996; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing of engine control cables, which could cause the control cables to break and result in loss of engine control and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 90 days after the effective date of this AD, perform a one-time inspection to detect chafing or discrepancies of the engine control cables in the areas of the cable fairleads on the nose rib firewall, and the cable fairleads in the fuselage; in accordance with Dornier Service Bulletins SB–328–76–152 and SB–328–76–168, both dated May 6, 1996; respectively. If any discrepancy or chafing is found, prior to further flight, replace the damaged cables with new or serviceable cables in accordance with the applicable service bulletin.

(b) For airplanes listed in Dornier Service Bulletin SB–328–76–152, dated May 6, 1996: Prior to further flight following the inspection required in paragraph (a) of this AD, modify the cable fairleads on the nose rib firewall in accordance with the service bulletin.

(c) For airplanes listed in Dornier Service Bulletin SB–328–76–168, dated May 6, 1996: Prior to further flight following the inspection required in paragraph (a) of this AD, modify the mounting brackets of the control cable pulleys in the pulley box in accordance with the service bulletin.

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

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

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

(f) The actions shall be done in accordance with Dornier Service Bulletin SB–328–76–152, dated May 6, 1996, and Dornier Service Bulletin SB–328–76–168, dated May 6, 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 FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in German airworthiness directives 96–288 and 96–290, both dated October 10, 1996.

(g) This amendment becomes effective on May 4, 1998.

Issued in Renton, Washington, on March 23, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8130 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 93–AWA–16]

RIN 2120–AA66

Modification of Class D Airspace South of Abbotsford, British Columbia (BC), on the United States Side of the U.S./Canadian Border, and the Establishment of a Class C Airspace Area in the Vicinity of Point Roberts, Washington (WA)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; establishment of effective date.

SUMMARY: On November 5, 1997, the FAA delayed the effective date for modification of Class D airspace south of Abbotsford, British Columbia (BC), on the United States side of the U.S./Canadian border, and the establishment of a Class C airspace area in the vicinity of Point Roberts, Washington (WA), as described in the final rule published in the **Federal Register** on August 28, 1997. That final rule was issued to assist Transport Canada in its efforts to reduce the risk of midair collision, enhance safety, and improve traffic flows within the Vancouver and Abbotsford, BC, International Airport Areas. This action

establishes the effective dates for the modification of these airspace areas.

EFFECTIVE DATES: The final rule published in the **Federal Register** on August 28, 1997 (62 FR 45526), and delayed on November 12, 1997 (62 FR 60647), is effective 0901 UTC, June 18, 1998, for the Class C airspace; and 0901 UTC, May 20, 1999, for the Class D airspace.

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

SUPPLEMENTARY INFORMATION:

Background

On August 20, 1997, the FAA issued the Modification of Class D airspace south of Abbotsford, BC, on the United States side of the U.S./Canadian border, and the establishment of a Class C airspace area in the vicinity of Point Roberts, WA, final rule (62 FR 45526). That final rule, which was to become effective on November 6, 1997, was issued to assist Transport Canada in its efforts to reduce the risk of midair collision, enhance safety, and improve traffic flows within the Vancouver and Abbotsford, BC, International Airport Areas.

On November 5, 1997 (62 FR 60647, November 12, 1997), the FAA delayed the implementation of the above rule at the request of Transport Canada. Transport Canada requested that the FAA take action to delay the rule to allow Nav-Canada an opportunity to complete a review of current Canadian airspace, aircraft operations, and air traffic procedures for the affected areas.

On January 5, 1998, Transport Canada notified the FAA via the FAA's Northwest Mountain regional office that their review was completed and requested that the FAA take action to implement the airspace modifications detailed in the August 20, 1997, final rule. This action establishes the effective dates for the modification of these airspace areas.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Effective Date

The effective date of Airspace Docket 93–AWA–16 (62 FR 45526, August 28, 1997, as delayed at 62 FR 60647, November 12, 1997) Class C airspace is 0901 UTC, June 18, 1998, and the Class D airspace is effective 0901 UTC, May 20, 1999.

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

Issued in Washington, DC, on March 20, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 98–8145 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–45]

Amendment to Class E Airspace; Blacksburg, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace extending upward from 700 feet Above Ground Level (AGL) at Blacksburg, VA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Virginia Tech Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rules (IFR) operations for aircraft executing the GPS RWY 12 SIAP to Virginia Tech Airport at Blacksburg, VA.

EFFECTIVE DATE: 0901 UTC, August 13, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On January 27, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace at Blacksburg, VA, was published in the **Federal Register** (63 FR 3854). The development of a GPS RWY 12 SIAP for Virginia Tech Airport requires the amendment of the Class E airspace at Blacksburg, VA. The proposal was to amend controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) amends Class E airspace at Blacksburg, VA, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS RWY 12 SIAP to Virginia Tech Airport.

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

under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA VA AEA E5 Blacksburg, VA [Revised]

Virginia Tech Airport, VA
(Lat. 37°12′28″ N., long. 80°24′29″ W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Virginia Tech Airport and within 4 miles each side of the 297° bearing from the airport extending from the 10-mile radius to 17 miles northwest of the airport, excluding the portions that coincide with the Roanoke, VA, and Dublin, VA Class E airspace areas.

* * * * *

Issued in Jamaica, New York, on March 12, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–7817 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AEA–47]

Amendment to Class E Airspace; Pennington Gap, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace at Lee County Airport, Pennington Gap, VA. All instrument procedures for the airport have been cancelled. The need for Class E airspace no longer exists for Instrument Flight Rules (IFR) operations at the airport. This action will result in the airspace reverting to Class G airspace.

EFFECTIVE DATE: 0901 UTC, June 18, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Francis Jordan, Airspace Specialist, Airspace Branch, AEA–520, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

History

On January 27, 1998, a proposal to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to remove the Class E airspace extending upward from 700 feet above the surface at Lee County Airport, Pennington Gap, VA, was published in the **Federal Register** (63 FR 3856).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. The rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas designations for airspace extending upward from 700 feet AGL are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be removed subsequently from the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) removes Class E airspace at Pennington Gap, VA. The need for controlled airspace extending from 700 feet AGL at the Lee County Airport no longer exists. This area will be removed from the appropriate aeronautical charts.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

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

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

* * * * *

AEA VA AEA E5 Pennington Gap, VA [Removed]

* * * * *

Issued in Jamaica, New York on March 18, 1998.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 98–8272 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–24]

Amendment to Class E Airspace; Lincoln, NE; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date and correction.

SUMMARY: This document confirms the effective date of a direct final rule

published on January 16, 1998, which revises Class E airspace at Lincoln Municipal Airport, NE, and corrects an error in the airspace designation as published in the direct final rule.

DATES: The direct final rule published at 63 FR 2600 is effective on 0901 UTC, April 23, 1998.

This correction is effective on April 23, 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: On January 16, 1998, the FAA published in the **Federal Register** a direct final rule; request for comments which modified the Class E airspace at Lincoln Municipal Airport, NE (FR Document 98–1104, 63 FR 2600, Airspace Docket No. 97–ACE–24). An error was subsequently discovered in the Class E airspace designation. 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 adoption of the rule. The FAA has determined that this correction will not change the meaning of the action nor add any additional burden on the public beyond that already published. This action corrects the error and confirms the effective date of the direct final rule.

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 April 23, 1998. No adverse comments were received, and thus this document confirms that this direct final rule will become effective on that date.

Correction

In rule FR Doc. 98–1104 published in the **Federal Register** on January 16, 1998, 63 FR 2600, make the following correction to the Lincoln Municipal Airport, NE, Class E airspace designation incorporated by reference in 14 CFR 71.1:

§ 71.1 [Corrected]

On page 2601, in the first column, in the ACE NE E5, Lincoln, NE airspace designation, after line 4, add Lincoln Municipal Airport ILS (lat. 40°52′02″ N., long. 96°45′42″ W.).

Issued in Kansas City, MO on February 23, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–8271 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ACE–30]

Amendment to Class E Airspace; Audubon, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule published on January 16, 1998, which revises Class E airspace at Audubon, IA.

DATES: The direct final rule published at 63 FR 2598 is effective on 0901 UTC, April 23, 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 January 16, 1998 (63 FR 2598). 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 April 23, 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 February 23, 1998.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–8270 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–31]

Amendment of Class E Airspace; Daytona Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment modifies Class E airspace at Daytona Beach, FL. A Global Positioning System (GPS) Runway (RWY) 6 (Special) Standard Instrument Approach Procedure (SIAP) has been developed for Spruce Creek Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (FR) operations at Spruce Creek Airport. The operating status of the airport will change from Visual Flight Rules (VFR) to include IFR operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, June 18, 1998.

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

SUPPLEMENTARY INFORMATION:

History

On January 26, 1998, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E airspace at Daytona Beach, FL, (63 FR 3673). This action would provide adequate Class E airspace for IFR operations at Spruce Creek Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

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

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR

part 71) modifies Class E airspace at Daytona Beach, FL. A GPS RWY 6 (Special) SIAP has been developed for Spruce Creek Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Spruce Creek Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP. This amendment also reflects the current name of the Daytona Beach Airport.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO FL E5 Daytona Beach, FL [Revised]

Daytona Beach International Airport, FL
(Lat. 29°10'48" N, long. 81°03'27" W)
Spruce Creek Airport
(Lat. 29°04'49" N, long. 81°02'48" W)
Ormond Beach Municipal Airport
(Lat. 29°18'04" N, long. 81°06'50" W)
Ormond Beach VORTAC
(Lat. 29°18'12" N, long. 81°06'46" W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 10-mile radius of Daytona Beach International Airport, and within a 6.4-mile radius of Spruce Creek Airport, and within 6.4-mile radius of Ormond Beach Municipal Airport and within 3.2 miles each side of the Ormond Beach VORTAC 256° radial extending from the 6.4-mile radius to 7 miles west of the VORTAC.

* * * * *

Issued in College Park, Georgia, on March 9, 1998.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–8268 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

[Docket No. 950609150–8003–04]

RIN 0648–AI06

Jade Collection in the Monterey Bay National Marine Sanctuary

AGENCY: Sanctuaries and Reserves Division (SRD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Final rule; notice of public availability of final supplemental environmental impact statement/management plan.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA) is amending the regulations and Designation Document for the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) to allow limited, small-scale collection of jade from the Jade Cove area of the Sanctuary. For a number of years prior to the designation of the MBNMS, tourists and local residents routinely visited the Jade Cove area to explore for and collect pieces of the naturally occurring jade. This final rule will allow, under certain circumstances, these types of activities to occur while still protecting Sanctuary resources.

DATES: Congress and the Governor of the State of California have forty-five days of continuous session of Congress beginning on the day on which this document is published to review the amendment to the Designation Document and regulations before it takes effect. After the forty-five day review period, the amendment to the Designation Document and regulations automatically becomes final and takes effect, unless the Governor of the State of California certifies within the forty-five day period to the Secretary of Commerce that the amendment to the Designation Document and regulations is unacceptable. In such case, the amendment to the Designation Document and regulations cannot take effect in the area of the Sanctuary lying within the seaward boundary of the State of California, and the original prohibition against collection of jade shall remain in effect. NOAA will publish in the **Federal Register** a document announcing the effective date following the forty-five day review period.

ADDRESSES: Copies of the Final Supplemental Environmental Impact Statement/Management Plan supporting this action may be obtained from Scott Kathey, Monterey Bay National Marine Sanctuary, 299 Foam Street, Suite D, Monterey, California 93940.

FOR FURTHER INFORMATION CONTACT: Scott Kathey at (408) 647–4251.

SUPPLEMENTARY INFORMATION:

I. Background

In recognition of the national significance of the unique marine environment centered around Monterey Bay, California, the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) was designated on September 18, 1992. SRD issued final regulations, effective January 1, 1993, to implement the Sanctuary designation (15 CFR Part 922 Subpart M). The MBNMS regulations at 15 CFR 922.132(a) prohibit a relatively narrow range of activities and thus make it unlawful for any person to conduct them or cause them to be conducted.

The MBNMS regulations prohibit exploring for, developing or producing oil, gas or minerals within the Sanctuary (15 CFR 922.132(a)(1)). Further, the regulations and Designation Document (the constitution for the Sanctuary) prohibit NOAA from issuing a permit or other approval for this activity in the Sanctuary (15 CFR 922.132(f); Designation Document, Article V). Therefore, the Sanctuary regulations and Designation Document absolutely prohibit exploring for, developing or

producing oil, gas or minerals in the MBNMS. Exploring for, developing or producing oil or gas in the MBNMS is also statutorily prohibited.

The region within the Sanctuary known as the Jade Cove area consists of a series of small coves located south of Big Sur, near the town of Gorda. Jade (also called nephrite) occurs in pods and nodules in the serpentine bedrock formation, extending down the cliffs and into the seabed. The coastal area is very dynamic, subject to strong waves and tides, which erode the bedrock and sometimes release the jade. Jade is found primarily as pebbles or larger stones on the shore and seabed, and as revealed deposits in the seafloor.

For a number of years prior to the designation of the MBNMS, tourists and local residents routinely visited the Jade Cove area to explore for and collect pieces of the naturally occurring jade. Even prior to the designation of the MBNMS, extraction of minerals from State submerged lands was prohibited by State law, unless authorized under a permit from the State (please see response to comment (9)). The U.S. Forest Service also prohibits the removal without a lease of any rocks or minerals within the Los Padres National Forest, which abuts the inshore boundary of the Sanctuary in the Jade Cove area.

NOAA is amending the regulations for the MBNMS to allow limited, small-scale collection of jade from the Jade Cove area of the Sanctuary, specifically the area bounded by the 35°55′20″ N latitude parallel (coastal reference point: beach access stairway at south Sand Dollar Beach) to the north, the 35°53′20″ N latitude parallel (coastal reference point: westernmost tip of Cape San Martin) to the south, and from the mean high tide line seaward to the 90-foot isobath (depth line). Limited, small scale collection of loose pieces of jade (which would otherwise naturally disintegrate) from the Jade Cove area will have at most a *de minimis* effect on the jade resource, a non-living resource, and will not destroy, cause the loss of, or injure other resources or qualities of the MBNMS. It should also be noted that the MBNMS Sanctuary Advisory Council (Council) recommended to SRD that the regulations be amended to allow small scale jade collection. The Council has devoted considerable time during several of its monthly meetings to obtain information and public testimony, and convened a task force to review this issue. There was also public support for the course of action.

The prohibition against permitting or otherwise approving the exploration, development or production of oil, gas or minerals in the Sanctuary is a term of the Designation Document for the Sanctuary. Pursuant to section 304(a)(4) of the National Marine Sanctuaries Act (NMSA) (16 U.S.C. 1434(a)(4)), the terms of designation of a national marine sanctuary may be modified only by the same procedures by which the original designation is made. Therefore, to allow limited, small-scale jade collection in the Jade Cove area of the Sanctuary, NOAA must comply with the procedures by which the Sanctuary was designated. Designations of national marine sanctuaries are governed by sections 303 and 304 of the NMSA (16 U.S.C. 1433, 1434). Section 304 requires the preparation of an environmental impact statement, State consultation, at least one public hearing, and gubernatorial non-objection to the proposal as it pertains to State waters within the Sanctuary (this final rule pertains entirely to State waters). This final rule is therefore accompanied by a Final Supplemental Environmental Impact Statement/Management Plan (FSEIS/MP). This final rule represents NOAA's preferred alternative as discussed in the FSEIS/MP. The Governor of California has forty-five days of continuous session of Congress beginning today to certify an objection to this final rule, should he make such a determination. If the Governor certifies an objection to this final rule, it will not take effect and the original prohibition will remain in effect.

NOAA issued an Advance Notice of Proposed Rulemaking (ANPR) on August 9, 1995 (60 FR 40540), to inform the public of the issue under consideration and to invite general advice, recommendations, information, and other comments from interested parties concerning the collection of marine jade within the Sanctuary. The comment period closed on September 8, 1995, with 195 comments received. Most comments were from individuals and favored unrestricted jade collection. NOAA issued a proposed rule on June 13, 1997 (62 FR 32320), to inform the public of NOAA's proposed course of action and to invite comments from interested parties. The comment period closed August 12, 1997, with 246 written comments received. A public hearing was held on July 30, 1997, with eight verbal comments received. All the comments were supportive of the proposed rule. A general summary of written and verbal comments and NOAA's responses follows.

II. Comments and Responses

(1) Comment: All comments support the proposed regulation allowing limited, small scale jade collection to occur in the Jade Cove area of the Sanctuary.

Response: No response necessary.

(2) Comment: How were the boundaries for the area of jade collection chosen?

Response: NOAA consulted with jade collectors, artisans, divers, natural resource managers, and other knowledgeable parties, and received input from the Sanctuary Advisory Council, to determine the most commonly used area of traditional marine jade collection and selected the boundaries of the Jade Cove area to accommodate such traditional collection while still protecting the resources and qualities of the NBNMS.

(3) Comment: The place name "north Plaskett Point" used in the proposed rule to identify the northern boundary of the jade collection area is not locally recognized. Please replace it with "south Sand Dollar Beach," which is a better known reference point. Specifically, there is a set of stairs located at south Sand Dollar Beach which coincides with the northern boundary of the collection area and is known to local residents and frequent visitors.

Response: NOAA agrees and has made the appropriate changes.

(4) Comment: NOAA should undertake an assessment of how much jade is available for harvesting.

Response: Because most of the jade in the Jade Cove area is present in smaller pods and nodules, not in veins, it is difficult to assess or measure the exact amount of jade in the Sanctuary. Information presented to NOAA at a meeting of the MBNMS Advisory Council in June 1994 by a geologist from the U.S. Geological Survey indicated that historic collection had not "limited" the jade resource and she did not believe that future collections at the same level would "limit" the jade resource.

(5) Comment: Collection of jade should require reporting of the amount taken to determine if there are any impacts of casual collection on the environment.

Response: The amount of jade removed pursuant to a permit issued by NOAA will be required to be reported. The amount of jade removed under the general exception, however, may be difficult to assess given the isolation and exposure of the area, the transitory nature of many visitors to the area, and the lack of NOAA or other personnel to monitor jade collection activities. NBNMS may establish a voluntary reporting system for jade removed under the general exception to assist in determining how much jade is removed

on an annual basis from the Jade Cove area.

(6) Comment: NOAA should consider an alternative of seasonal closures on jade collection, if only for safety reasons.

Response: NOAA believes that the inhospitable and often harsh conditions in winter are self-limiting to collection of marine jade in the Jade Cove area. People collect jade at their own risk. NOAA's action only removes a restriction on a previously prohibited activity.

(7) Comment: The proposed rule is not clear on what restrictions, if any, exist on the commercial use of jade collected under the conditions of the proposed rule. Please clarify.

Response: NOAA does not place any conditions on the use of jade that has been removed under the general exception. Persons who wish to remove jade under a Sanctuary permit will be required to explain the purpose for which the jade is to be removed, including commercial or "for profit" uses. All permits will be considered on a case-by-case basis according to the general permit criteria at 15 CFR 922.48 and 922.133; preference will be given to research and education uses. NOAA will not allow commercial excavation or mining of the jade resource within the MBNMS.

(8) Comment: If a person finds a loose large piece of jade that cannot be carried out by an individual, can he break the large piece into several smaller pieces with the hand tools allowed under the exception and remove the smaller pieces?

Response: If a stone is not removable under the conditions given in the general exception for limited, small-scale jade collection under this rule, including an individual being allowed to remove only what he carries himself, then a permit will be required to remove the stone. Hand tools are only allowed to aid in maneuvering and lifting loose stones, and scratching the surface of a stone as necessary to determine if it is jade. Hand tools are not authorized to be used to break or chip stones under any circumstances.

(9) Comment: NOAA stated in the proposed rule that prior to Sanctuary designation, collection of marine jade from California ocean areas was a violation of state law. This is not true and should be corrected.

Response: Under California law, the State Lands Commission (SLC) has exclusive jurisdiction over all ungranted tidelands and submerged lands owned by the State (California Public Resources Code § 6301). The SLC is authorized to issue prospecting permits and leases for the extraction and removal of minerals, other than oil and gas or other hydrocarbon substances, from lands, including tide and submerged lands belonging to the state, consistent with the procedures of the California Code of Regulations, Title 2, Division 3, Article 4, Section 2200–2205. As the SLC has not prescribed regulations for the noncommercial hobby collection of minerals from state lands, any collection of minerals from such lands is considered commercial collection.

Should any person remove, without a permit, jade in large amounts or for the purpose of sale, the SLC has authority under Public Resource Code § 6302 to seek civil damages for trespass, and for conversion of public property. The SLC also has authority to seek criminal penalties for trespass (Penal Code § 602) or for theft (Penal Code § 484, 495).

(10) Comment: Please enter into the official record the document Jade Collection—A California Heritage previously submitted to NOAA.

Response: Jade Collection—A California Heritage is part of the administrative record for this rule and is available for public inspection.

(11) Comment: Please enter into the official record all previous correspondence sent to NOAA on the issue of jade collection within the Sanctuary.

Response: All correspondence sent to NOAA on the issue of jade collection prior to the public comment period of the proposed rule was considered in the course of NOAA's decision-making process and is available for public inspection.

(12) Comment: Can a collector collect jade outside the established collection zone if he/she obtains a Sanctuary permit?

Response: No. The absolute prohibition against exploring for, developing or producing oil, gas or minerals will remain in effect outside the Jade Cove area within the Sanctuary.

III. Revised Article V of the Designation Document for the Monterey Bay National Marine Sanctuary

No change to Article I–IV, and Article VI of the Designation Document have been made by NOAA. Article V of the Designation Document is amended by revising paragraph 2. Paragraph 2 of Article V is presented in its entirety with the revised language in italics.

Article V. Effect on Leases, Permits, Licenses, and Rights

In no event may the Secretary or designee issue a permit authorizing, or otherwise approve: (1) the exploration for, development of or production of oil, gas or minerals within the Sanctuary except for limited, small-scale jade collection in the Jade Cove area of the Sanctuary [defined as the area bounded by the 35°55′20″ N latitude parallel (coastal reference point: beach access stairway at South Sand Dollar Beach), the 35°53′20″ N latitude parallel (coastal reference point: westernmost tip of Cape San Martin), and the mean high tide line seaward to the 90-foot isobath (depth line)]; (2) the discharge of primary-treated sewage (except for regulation, pursuant to Section 304(c)(1) of the Act, of the exercise of valid authorizations in existence on the effective date of Sanctuary designation and issued by other authorities of competent jurisdiction); or (3) the disposal of dredged material within the Sanctuary other than at sites authorized by the U.S. Environmental Protection Agency (in consultation with the U.S. Army Corps of Engineers) prior to the effective date of designation. Any purported authorizations issued by other authorities after the effective date of Sanctuary designation for any of these activities within the Sanctuary shall be invalid.

End of Revised Article V of the Designation Document

IV. Summary of the Regulatory Amendment

Jade is a non-living resource of the MBNMS (see 15 CFR 922.3). Allowing limited, small-scale collection of small pieces already loose, which would otherwise naturally disintegrate, will have at most a *de minimis* effect on the jade resource. Further, it appears that collection of loose pieces of jade from the authorized area of the Sanctuary can be conducted without destroying, causing the loss of, or injuring other Sanctuary resources or qualities. Small scale, limited collection of jade is allowed under an exception to the MBNMS prohibitions, with certain conditions. Larger loose pieces of jade not allowed to be collected under the exception may be authorized to be collected under a Sanctuary permit. However, under no circumstances will NOAA allow the use of pneumatic, mechanical, electrical, hydraulic or explosive tools to collect jade. NOAA will also not issue a permit to allow excavation or mining of the jade resource, or the collection of larger loose pieces that support important components of the benthic community.

Consequently, NOAA is amending section 922.132(a)(1), 922.132(f), and section 922.133(c) to provide an exception to the prohibition against exploring for, developing or producing

oil, gas or minerals in the Sanctuary, to allow limited, small-scale collection of jade from the Jade Cove area of the Sanctuary [defined as the area bounded by the 35°55′20″N latitude parallel (coastal reference point: beach access stairway at south Sand Dollar Beach), the 35°53′20″N latitude parallel (coastal reference point: westernmost tip of Cape San Martin), and the mean high tide line seaward to the 90-foot isobath (depth line)]. NOAA is also amending section 922.132(a)(4) to provide, for consistency, a corresponding exception to the prohibition against alteration of the seabed for collection of loose jade as described below. The exception is limited to the Jade Cove area as this has been the primary area historically of marine jade collection.

The exception also contains certain other limitations to protect Sanctuary resources and qualities. The exception limits collection to jade pieces already loose from the seabed, meaning that natural storm or wave action has already completely separated the stone from the seabed. Under the general exception, no tools may be used to collect jade except (a) a hand tool, defined as a hand-held implement, utilized for the collection of jade pursuant to section 922.132(a)(1), that is no greater than 36 inches in length and has no moving parts (e.g., dive knife, pry bar or abalone iron), to maneuver or lift a loose jade piece or scratch the surface of a stone as necessary to determine if it is jade; (b) a lift bag or multiple lift bags with a combined lift capacity not to exceed 200 pounds; or (c) a vessel (except for a motorized personal watercraft (see § 922.132(a)(7)) to provide access to the authorized area. Finally, each person may collect only what that person individually carries. The two hundred pound lift bag limit corresponds with the restriction limiting jade removal to what each person individually carries. Over one hundred pounds is considered to be a very heavy physical demand level (see Matheson, L. and Matheson, M. Examiners Manual for the Spinal Function Sort), and appears to correspond with the maximum amount that an average person could lift. The two hundred pound lift bag will allow safe transport to the surface of stones weighing less than 200 pounds. More important, the limitation is consistent with the overall effort to avoid jade collection that could adversely impact benthic (bottom) habitat.

Loose stones exceeding two hundred pounds would be of such mass as to be more likely to support important components of the benthic community and should not be readily made available for removal under the regulatory exception. A Sanctuary permit will be required for the collection of such loose pieces of jade. Applications for Sanctuary permits will be reviewed on a case-by-case basis under the general permit criteria contained at 15 CFR §§ 922.48 and 922.133, and will require that the applicant have all necessary approvals from other jurisdictions, including the California State Lands Commission. Preference will be given to those applicants proposing to collect such larger pieces for research or educational purposes. Any Sanctuary permits issued for jade collection will be conditioned to protect Sanctuary resources and in no circumstances will NOAA permit the use of pneumatic, mechanical, electrical, hydraulic or explosive tools to collect jade. This prohibition applies equally to collection activities conducted from authorized vessels, thus no deck cranes, davits, winches or other onboard equipment may be used to collect jade. NOAA will also not permit any excavation or mining of the jade resource, or the collection of larger loose pieces that support important components of the benthic community.

The exception for the limited, small-scale collection of loose pieces of jade does not extend to oil or gas or any other mineral. Furthermore, there is a statutory prohibition against leasing, exploration, development, or production of oil or gas in the Sanctuary.

Any collection of jade in Jade Cove, which is within California State waters, will require a State permit because of the State's prohibitions against taking minerals from State submerged lands (please see response to comment (9)). This is consistent with 15 CFR 922.42, which provides that any activity within a specific national marine sanctuary not expressly prohibited or otherwise regulated by that sanctuary's regulations may be conducted subject to, among other things, all prohibitions, restrictions and conditions validly imposed by any other authority of competent jurisdiction. Current Federal and State restrictions on jade collection in upland areas adjacent to the Sanctuary are unaffected by this rulemaking.

V. Miscellaneous Rulemaking Requirements

National Marine Sanctuaries Act

Section 304(a)(4) of the National Marine Sanctuaries Act, 16 U.S.C. 1434(a)(4), provides that the terms of designation may be modified only by the same procedures by which the original designation is made. Designations of National Marine Sanctuaries are governed by sections 303 and 304 of the NMSA, 16 U.S.C. 1433, 1434. Section 304 requires the preparation of an environmental impact statement, State consultation, at least one public hearing, and gubernatorial non-objection to the proposal as it pertains to State waters within the Sanctuary.

Congress and the Governor of the State of California have forty-five days of continuous session of Congress beginning on the day on which this document is published to review the amendment to the Designation Document and regulations before it takes effect. After the forty-five day review period, the amendment to the Designation Document and regulations automatically becomes final and takes effect, unless the Governor of the State of California certifies within the forty-five day period to the Secretary of Commerce that the amendment to the Designation Document and regulations is unacceptable. In such case, the amendment to the Designation Document and regulations cannot take effect in the area of the Sanctuary lying within the seaward boundary of the State of California, and the original prohibition shall remain in effect. NOAA will publish in the **Federal Register** a notice of effective date following the forty-five day review period.

National Environmental Policy Act

When changing a term of designation of a National Marine Sanctuary, section 304 of the NMSA, 16 U.S.C. 1434, requires the preparation of an environmental impact statement (EIS) as provided by the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and that the EIS be made available to the public. NOAA prepared and made available to the public a draft supplemental environmental impact statement/management plan for the Monterey Bay National Marine Sanctuary on the proposal to amend the regulations and Designation Document to allow limited, small-scale jade collection in the Jade Cove area of the Sanctuary. A final supplemental environmental impact statement/management plan has been prepared and is available to the public from the addresses listed at the beginning of this notice.

Executive Order 12866: Regulatory Impact

NOAA has concluded that this regulatory action is not significant within the meaning of section 3(f) of

Executive Order 12866 because it will not result in:

(1) An annual effect on the economy of $100 million or more or adversely affect in a material way the economy, productivity, competition, jobs, the environment, or public health and safety;

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

(3) A material alteration of the budgetary impact of entitlement, grants, user fees, or loan programs or rights and obligations of such recipients; or

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

Executive Order 12612: Federalism Assessment

NOAA has concluded that this regulatory action does not have sufficient federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

Regulatory Flexibility Act

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 as follows:

The rule amends the Monterey Bay National Marine Sanctuary (MBNMS or Sanctuary) regulations to allow limited, small-scale collection of jade from an area within the Sanctuary known as Jade Cove, consistent with other applicable Federal and State law. Prior to the designation of the Sanctuary, extraction of minerals from State submerged lands was prohibited by State law, unless authorized by a permit issued by the State. The regulations implementing the designation of the Sanctuary absolutely prohibit exploration for, development or production of oil, gas or minerals in the Sanctuary. Consequently, because jade is a mineral, its collection is absolutely prohibited even if authorized by a State permit. Jade can be collected within Jade Cove, which is within California State waters, provided its collection is authorized by a State permit. Without a State permit, its collection would be prohibited by the State's prohibitions against taking minerals from State submerged lands and disturbing State subsurface lands. NOAA is aware of only one small business that used the jade resource prior to the Sanctuary's designation. That business did not conduct large-scale collection or rely solely on jade from Jade Cove. Most of its jade was collected from other sources, including from upland and out of State sources. Consequently, the rule is not expected to significantly impact a substantial number of small business entities.

Accordingly, a Regulatory Flexibility Analysis was not prepared.

Paperwork Reduction Act

This rule will not impose an information collection requirement subject to review and approval by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3500 *et seq.*

List of Subjects in 15 CFR Part 922

Administrative practice and procedure, Coastal zone, Education, Environmental protection, Historic preservation, Intergovernmental relations, Marine resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research, Wildlife.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: March 16, 1998.

Captain Evelyn Fields,

Acting Deputy Assistant Administrator for Ocean Services and Coastal Zone Management.

Accordingly, for the reasons set forth above, 15 CFR Part 922 is amended as follows:

PART 922—[AMENDED]

1. The authority citation for Part 922 continues to read as follows:

Authority: 16 U.S.C. 1431 *et seq.*

Subpart M—Monterey Bay National Marine Sanctuary

2. Section 922.131 is amended by adding the following definition in alphabetical order to read as follows:

§ 922.131 Definitions.

* * * * *

Hand tool means a hand-held implement, utilized for the collection of jade pursuant to § 922.132(a)(1), that is no greater than 36 inches in length and has no moving parts (e.g., dive knife, pry bar or abalone iron). Pneumatic, mechanical, electrical, hydraulic or explosive tools are, therefore, examples of what does not meet this definition.

* * * * *

3. Section 922.132 is amended by revising paragraphs (a)(1), (a)(4) introductory text, (d) and (f). By removing "or" at the end of paragraph (a)(4)(iv), by removing the period at the end of paragraph (a)(4)(v), and adding "; or" in its place, and by adding paragraph (a)(4)(vi) to read as follows:

§ 922.132 Prohibited or otherwise regulated activities.

(a) * * *

(1) Exploring for, developing or producing oil, gas or minerals within the Sanctuary except: jade may be collected (meaning removed) from the area bounded by the 35°55′20″ N latitude parallel (coastal reference point: beach access stairway at south Sand Dollar Beach), the 35°53′20″ N latitude parallel (coastal reference point: westernmost tip of Cape San Martin), and from the mean high tide line seaward to the 90-foot isobath (depth line) (the "authorized area") *provided that*:

(i) Only jade already loose from the seabed may be collected;

(ii) No tool may be used to collect jade except:

(A) A hand tool (as defined in § 922.131) to maneuver or lift the jade or scratch the surface of a stone as necessary to determine if it is jade;

(B) A lift bag or multiple lift bags with a combined lift capacity of no more than two hundred pounds; or

(C) A vessel (except for motorized personal watercraft) (see paragraph (a)(7) of this section) to provide access to the authorized area;

(iii) Each person may collect only what that person individually carries; and

(iv) For any loose piece of jade that cannot be collected under paragraphs (a)(1) (ii) and (iii) of this section, any person may apply for a permit to collect such a loose piece by following the procedures in § 922.133.

* * * * *

(4) Drilling into, dredging or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material or other matter on the seabed of the Sanctuary except as an incidental result of:

* * * * *

(vi) Collection of jade pursuant to paragraph (a)(1) of this section, provided that there is no constructing, placing, or abandoning any structure, material, or other matter on the seabed of the Sanctuary.

* * * * *

(d) The prohibitions in paragraph (a)(1) of this section as it pertains to jade collection in the Sanctuary, paragraphs (a) (2) and (8) of this section, and paragraph (a)(10) of this section do not apply to any activity executed in accordance with the scope, purpose, terms and conditions of a National Marine Sanctuary permit issued pursuant to §§ 922.48 and 922.133 or a Special Use permit issued pursuant to section 310 of the Act.

* * * * *

(f) Notwithstanding paragraphs (d) and (e) of this section, in no event may the Director issue a National Marine Sanctuary permit under §§ 922.48 and 922.133 or a Special Use permit under

section 310 of the Act authorizing, or otherwise approve: the exploration for, development or production of oil, gas or minerals within the Sanctuary, except for the collection of jade pursuant to paragraph (a)(1) of this section; the discharge of primary-treated sewage within the Sanctuary (except by certification, pursuant to § 922.47, of valid authorizations in existence on January 1, 1993 and issued by other authorities of competent jurisdiction); or the disposal of dredged material within the Sanctuary other than at sites authorized by EPA (in consultation with COE) prior to January 1, 1993. Any purported authorizations issued by other authorities within the Sanctuary shall be invalid.

4. Section 922.133 is amended by revising paragraphs (a) and (c) to read as follows:

§ 922.133 Permit procedures and criteria.

(a) A person may conduct an activity prohibited by § 922.132(a)(1) as it pertains to jade collection in the Sanctuary, § 922.132(a) (2) through (8), and § 922.132(a) (10), if conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section and 922.48.

* * * * *

(c) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as he or she deems appropriate, to conduct an activity prohibited by § 922.132(a)(1) as it pertains to jade collection in the Sanctuary, § 922.132(a) (2) through (8), and § 922.132(a)(10) if the Director finds the activity will have only negligible short-term adverse effects on Sanctuary resources and qualities and will: further research related to Sanctuary resources and qualities; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; allow the removal, without the use of pneumatic, mechanical, electrical, hydraulic or explosive tools, of loose jade from the Jade Cove area under § 922.132(a)(1)(iv); assist in managing the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary title to which is held by the State of California. In deciding whether to issue a permit, the Director shall consider such factors as: the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects; the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extend to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the cumulative effects of the activity; and the end value of the activity. For jade collection, preference will be given for applications proposing to collect loose pieces of jade for research or educational purposes. In addition, the Director may consider such other factors as he or she deems appropriate.

* * * * *

[FR Doc. 98–7201 Filed 3–27–98; 8:45 am]
BILLING CODE 3510–08–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 133

[T.D. 98–21]

Copyright/Trademark Name Protection; Disclosure of Information; Correction

AGENCY: Customs Service, Treasury.
ACTION: Final rule; corrections.

SUMMARY: Customs published in the **Federal Register** of March 12, 1998, a document which amended the Customs Regulations to allow Customs to provide to intellectual property rights (IPR) owners sample merchandise and to disclose to IPR owners certain information regarding the identity of persons involved with importing merchandise that is detained or seized for infringement of the IPR owner's registered copyright, trademark, or trade name rights. Inadvertently, § 133.43 was incorrectly amended. This document corrects the amendment of that section.

DATES: This correction is effective April 13, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Smith, Attorney, Intellectual Property Rights Branch (202) 927–2326.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1998, Customs published in the **Federal Register** (63 FR 11996)(FR Doc. 98–6183) T.D. 98–21 to amend the Customs Regulations at part 133 to allow Customs to provide to intellectual property rights (IPR) owners sample merchandise and to disclose to IPR owners certain information regarding the identity of persons involved with importing merchandise that is detained or seized for infringement of the IPR owner's registered copyright, trademark, or trade name rights.

This document corrects three editorial errors to § 133.43 that were contained in T.D. 98–21. The editorial errors concern the amendment to § 133.43, which pertains to the procedure on suspicion of infringing copies.

It has come to Customs attention that a requirement currently in paragraph (b)(2) of § 133.43 that was never intended to be changed was inadvertently dropped from the regulatory text in the March 12 publication. The dropped requirement, that Customs is reinserting in this correction document, concerns what a copyright owner must file with a port director to prevent an imported article suspected of being an infringing copy from being released if the importer files a denial that the article is an infringing copy. The copyright owner must file a bond along with a written demand for exclusion from entry of the detained article. The text of paragraph (b)(2) of § 133.43 in the March 12 publication inadvertently dropped the bond requirement.

The second and third errors concern the text of the second sentence in paragraph (c). One error incorrectly identified trademark owners as the object of the procedure when it should have referenced copyright owners. The other error mistakenly included words ("Customs detention or seizure, or * * *, in the event that the Commissioner of Customs, or his designee, or a federal court determines that the article does not bear an infringing mark") that should have been omitted and were not. Accordingly, this document corrects those errors.

Correction of Publication

Accordingly, the publication on March 12, 1998, of the final rule (T.D. 98–21)(63 FR 11996)(FR Doc. 98–6183) is corrected as follows:

1. On page 12000, in the third column, paragraphs (b)(6) and (c) of § 133.43 are corrected to read as follows:

§ 133.43 Procedure on suspicion of infringing copies.

* * * * *

(b) * * *

(6) Notice that the imported article will be released to the importer unless, within 30 days from the date of the notice, the copyright owner files with the port director:

(i) A written demand for the exclusion from entry of the detained imported article; and

(ii) A bond, in the form and amount specified by the port director, conditioned to hold the importer or owner of the imported article harmless from any loss or damage resulting from Customs detention in the event the Commissioner or his designee

determines that the article is not an infringing copy prohibited importation under section 602 of the Copyright Act of 1976 (17 U.S.C. 602)(See part 113 of this chapter).

(c) *Samples available to the copyright owner.* At any time following presentation of the merchandise for Customs examination, but prior to seizure, Customs may provide a sample of the suspect merchandise to the owner of the copyright for examination or testing to assist in determining whether the article imported is a piratical copy. To obtain a sample under this section, the copyright owner must furnish Customs a bond in the form and amount specified by the port director, conditioned to hold the United States, its officers and employees, and the importer or owner of the imported article harmless from any loss or damage resulting from the furnishing of a sample by Customs to the copyright owner. Customs may demand the return of the sample at any time. The owner must return the sample to Customs upon demand or at the conclusion of the examination or testing. In the event that the sample is damaged, destroyed, or lost while in the possession of the copyright owner, the owner shall, in lieu of return of the sample, certify to Customs that: "The sample described as [insert description] provided pursuant to 19 CFR 133.43(c) was (damaged/destroyed/lost) during examination or testing for copyright infringement.

* * * * *

Dated: March 25, 1998.

Harold M. Singer,

Chief, Regulations Branch.

[FR Doc. 98–8218 Filed 3–27–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–98–004]

RIN 2115–AE46

Special Local Regulations; Annual Air & Sea Show, Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent special local regulations for the City of Fort Lauderdale Annual Air & Sea Show. This event will be held annually on the first Friday, Saturday and Sunday of May, and will involve approximately 150 participating aircraft and vessels, and 3,000 spectator craft. The resulting congestion will create an extra or unusual hazard in the navigable waters. These regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule becomes effective April 29, 1998.

FOR FURTHER INFORMATION CONTACT: LTJG J. Delgado Coast Guard Group Miami, Florida at (305) 535–4409.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 17, 1998 (63 FR 7740), the Coast Guard published a Notice of Proposed Rulemaking seeking comments on the establishment of permanent special local regulations for the Air & Sea Show held annually on the third Friday, Saturday and Sunday of May off of Fort Lauderdale, Florida. One comment was received from the Florida Department of Natural Resources, seeking a slight change in the coordinates of the regulated area to better protect marine species. The Coast Guard has incorporated the suggested change into the regulations.

Background and Purpose

The City of Fort Lauderdale Annual Air & Sea Show is a three day event with approximately 130 aircraft and 18 ski boats, jet skis and offshore racing power boats. In addition, various military aircraft, including high performance aircraft, will be operating at high speeds and low altitudes in the area directly above the regulated area. The event will take place in the Atlantic Ocean from Fort Lauderdale beach to one nautical mile offshore, between Oakland Park Boulevard and the 17th Street Causeway.

These regulations will prohibit non-participating vessels from entering the regulated area, and directs participants to obey instructions from the patrol commander.

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. Entry into the regulated area is prohibited for only 6 hours on Friday, and 8 hours on Saturday and Sunday.

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" 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 of less than 50,000.

Therefore, the Coast Guard certifies under U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities as the regulations would only be in effect for approximately eight hours each day for three days each year.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to section 2.B.2.a (CE #34(h)) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

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

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35. * * *

2. A new section 100.731 is added to read as follows:

§ 100.731 Special local regulations; annual Ft. Lauderdale Air & Sea Show, Ft. Lauderdale, FL.

(a) *Regulated area.* The following is a regulated area: All waters of the Atlantic Ocean west of a line drawn from 26--10.32N, 080--05.9W to 26--06.36N, 080--05.58W. All coordinates referenced use Datum: NAD 83.

(b) *Special local regulations.* (1) All vessels, with the exception of event participants, are prohibited from entering the regulated area without the specific permission of the patrol commander.

(2) All vessels shall immediately follow any specific instructions given by event patrol craft and exercise extreme caution while operating in or near the regulated area. A succession of not fewer than five short whistle or horn blasts from a patrol vessel will be the signal for any non-participating vessel to stop immediately. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) After the termination of the Air and Sea Show event for each respective day, all vessels may resume normal operations.

(c) *Dates.* These regulations become effective annually on the first Friday, Saturday and Sunday of May, from 9 a.m. to 3 p.m. EDT on Friday, and from 9 a.m. to 5 p.m. EDT on Saturday and Sunday.

Dated: March 20, 1998.

Norman T. Saunders,

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

[FR Doc. 98–8261 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07 98–003]

RIN 2115–AE46

Special Local Regulations; Miami Beach, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing permanent special local regulations for the Miami Super Boat Race. This event will be held annually on the third Sunday of April 1000 feet offshore Miami Beach, between 12 p.m. and 4 p.m. Easter Daylight Time (EDT). The regulations are necessary to provide for the safety of life on navigable waters during the event.

DATES: This rule becomes effective on March 30, 1998.

FOR FURTHER INFORMATION CONTACT: LTJG J. Delgado, Coast Guard Group Miami, FL at (305) 535–4409.

SUPPLEMENTARY INFORMATION:

Regulatory History

On February 17, 1998 (63 FR 7741), the Coast Guard published a Notice of Proposed Rulemaking to establish permanent special local regulations for the Miami Super Boat Race, which will be held annually on the third Sunday in April. No comments were received during the comment period.

Background and Purpose

Super Boat International Productions Inc., is sponsoring a high speed power boat race with approximately thirty-five (35) race boats, ranging in length from 24 to 50 feet, participating in the event. There will be approximately two hundred (200) spectator craft. The race will take place in the Atlantic Ocean 1,000 feet off the Miami Beach shore, from the Miami Beach Clock Tower to Atlantic Heights. The race boats will be competing at high speeds with numerous spectator crafts in the area, creating an extra or unusual hazard in the navigable waterways. These regulations will create regulated areas for the competing vessels and for spectator craft.

In accordance with 5 U.S.C. 553, good cause exists for making these regulations effective in less than 30 days after **Federal Register** publication. Delaying the effective date would be contrary to national safety interests since immediate action is needed to minimize potential danger to the public as the event is scheduled to occur in less than 30 days. Further, upon receiving the permit application, the Coast Guard published a Notice of Proposed Rulemaking and received no comments. The permit application was not received in time to allow for an acceptable comment period and a 30 day delay in the effective date of the regulations.

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 proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. Entry into the regulated area is prohibited for only four hours on the day of the event.

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" include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdiction with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities as the regulations would only be in effect for approximately four hours for one day each year.

Collection of Information

These regulations contain no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this action and has determined pursuant to section 2.B.2.a (CE #34(h)) of Commandant Instruction M16475.1C, that this action is categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water),* Reporting and recordkeeping requirements, Waterways.

Final Regulations

In consideration of the foregoing, the Coast Guard amends Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100–[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.730 is added to read as follows:

§ 100.730 Annual Miami Super Boat Race; Miami Beach, Florida

(a) *Regualted area.* (1) A regulated area is established by a line joining the following points: 25–46.3N, 080–07.85W; thence to, 25–46.3N, 080–06.82W; thence to, 25–51.3N, 080–06.20W; thence to, 25–51.3N, 080–07.18W; thence along the shoreline to the starting point. All coordinate referenced use Datum: NAD 83.

(2) A spectator area is established in the vicinity of the regulated area for spectator traffic and is defined by a line joining the following points, beginning from: 25–51.3N, 080–06.15W; thence to, 25–51.3N, 080–05.85W; thence to, 25–46.3N, 080–06.55W; thence to, 25–46.3N, 080–06.77W; and back to the starting point. All coordinates referenced use Datum: NAD 83.

(3) A buffer zone of 300 feet separates the race course and the spectator areas.

(b) *Special local regulations.* (1) Entry into the regulated area by other than event participants is prohibited unless otherwise authorized by the Patrol Commander. At the completion of scheduled races and departure of participants from the regulated area, traffic may resume normal operations. Traffic may be permitted to resume normal operations between scheduled racing events, at the discretion of the Patrol Commander.

(2) A succession of not fewer than five short whistle or horn blasts from a patrol vessel will be the signal for any and all vessels to take immediate steps to avoid collision. The display of an orange distress smoke signal from a patrol vessel will be the signal for any and all vessels to stop immediately.

(3) Spectators are required to maintain a safe distance from the race course at all times.

(c) *Dates:* These regulations become effective annually at 12 p.m. and terminate at 4 p.m. EDT on the third Sunday in April.

Dated: March 20, 1998.

Norman T. Saunders,

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

[FR Doc. 98–8262 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH103–1a; FRL–5978–6]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: USEPA approves State Implementation Plan (SIP) revisions submitted by the State of Ohio on December 9, 1996, which added a Statewide exemption for sources burning natural gas from operating rate restrictions that would otherwise apply for purposes of sulfur dioxide control, and changed the sulfur dioxide (SO_2) limits on a site specific basis by removing a restriction on the simultaneous operation of the three heaters (B010, B008, and B006) at the Sun Oil Company facility in Lucas County, USEPA also approves previously adopted revisions to rule OAC 3745–18–06, entitled general emission limit provision, adding limits for stationary gas turbines and stationary internal combustion engines.

DATES: The "direct final" approval is effective on May 29, 1998 unless written adverse or critical comments are received by April 29, 1998. If the effective date is delayed timely notice will be published in the **Federal Register.**

ADDRESSES: Copies of the revisions request are available for inspection at the following address: U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604

(It is recommended that you telephone Phuong Nguyen, Environmental Scientist, at (312) 886–6701 before visiting the Region 5 office.)

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

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

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Implementation Plan (FIP) containing SO_2 regulations regarding sources in Ohio was promulgated on August 27, 1976 (41 FR 36324).

On May 4, 1981 (46 FR 24966), USEPA proposed to disapprove the Ohio SO_2 SIP for Lucas County. This proposed disapproval was based on the modeling analysis of Lucas County submitted by the Toledo Edison Company. This analysis predicted violations of the 24-hour and the 3-hour National Air Quality Standard (NAAQS) under applicable rules in Lucas County.

After May 4, 1981, Ohio EPA provided updated emission data for sources in Lucas County. USEPA initiated a remodeling analysis. The purpose of the reanalysis was to evaluate the effect of the updated emissions on the previously predicted violations. Results of the remodeling showed no violation of either the 24-hour or 3-hour standard. On January 13, 1982 (47 FR 1398) USEPA proposed to approve the State of Ohio's SO_2 plan for Lucas County and withdrew the prior proposed rule.

On June 30, 1982, the final rulemaking became effective (47 FR 28377). In the June 30, 1982 action, USEPA approved the Ohio SIP for SO_2 for Lucas County. The Plan was approved because it was demonstrated to provide for attainment and maintenance of the SO_2 NAAQS in Lucas County. The plan included all major SO_2 sources in the county except for Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company.

II. Review of State Submittal

In its December 9, 1996 submittal, Ohio requested approval of OAC 3745–18–54 (O) for the Sun Oil Company to replace the current applicable FIP and approval of revisions to OAC 3745–18–06 (A) exempting sources burning natural gas from otherwise applicable limits. The submittal provides a technical support document for the requested SO_2 limits for the Sun Oil Company facility and a synopsis of the requested revision of Ohio administrative code rule 3745–18–06 (A). The revision was adopted on October 7, 1996, and became effective on October 31, 1996. By letter of December 15, 1997, Ohio submitted further clarification of its exemption for sources burning natural gas and requested the USEPA also rulemake on other previously adopted revisions to rule 3745–18–06, notably including added limits on emissions from stationary gas turbines and stationary internal combustion engines.

A. Sun Oil Company

Originally, Sun Oil Company chose to use two fuel sources with different SO_2 content (#2 fuel oil and #6 fuel oil) as the fuels burned for the three heaters (B006, B008, B010) at this facility. The

structure of the FIP, in requiring that no more than two of these three units operate at anyone time, allows various combinations of these units to operate. Modeling in support of the federally promulgated limits demonstrated attainment even for the worst case combination of two of these three sources operating. The revisions adopted by the State would provide no change in maximum emissions from B010 and would reduce maximum emissions from B006 and B008 from about 28 pounds per hour down to about 1 pound per hour for each source. It is clear that the worst case combined impacts from sources B006 and B008 under the new limits will be less than the worst case impact of just one of these sources operating under the federally promulgated limits. The worst case impact of B010 is unchanged. Thus, Ohio EPA has demonstrated that the worst case impact of all three sources operating within the new limits will be less than the worst case combination of two of the three sources operating under the federally promulgated limits, such that the new limits provide even greater assurance of attainment.

The three Sun Oil facility heaters are listed in the documentation to the SIP submittal. The FIP limits are 1.10 pounds per million British thermal units actual heat input (#/MM Btu) for heaters B006 and B008, and 1.60 #/MM Btu for heater B010. The revised limits are 0.04 #/MM Btu for heaters B006 and B008, and B010 limit is unchanged. (The limits and rules for Lucas County, other than for the Sun Oil Company facility, are not addressed in this rulemaking.)

A September 28, 1994, memorandum from the Director, Air Quality Management Division, Office of Air Quality Planning and Standards, USEPA, to the Director, Air and Radiation Division, Region 5, entitled, "Response to Request for Guidance on Issues with Ohio Sulfur Dioxide Federal Implementation Plan" provides guidance on this type of submittal. This memo sets forth three criteria to be met so that FIP limits can be reverted to the SIP without new modeling. Under the first two criteria, there must be no known inadequacy in the original attainment demonstration. Under the third criteria, the State limits must reflect no relaxation of existing emission limits. All three of these criteria are met. Therefore, the revised limits may be considered to be adequate to assure attainment without further modeling.

In addition to the requested revision, Sun Oil Company has informed the Ohio EPA that heater number H–301 (OEPA source number B001) has been removed from the facility. Therefore, Ohio EPA is also requesting revision to the emission limits for that source from 1.50 pounds of SO_2 per million Btu heat input to 0.0 pounds of SO_2 per million Btu heat input.

Finally, the name of the company is being changed in the rule to reflect the current name of the company "Sun Company, Inc. (R&M)".

In terms of enforceability, the submitted limits can be evaluated using a stack test, which is acceptable to USEPA. Recordkeeping and reporting requirements are the same as those applied to other sources and are fully satisfactory. The emission limits are clear and should be readily enforceable.

B. Exemption for Sources Burning Natural Gas

The second revision to Ohio's State Implementation Plan for sulfur dioxide is a statewide provision exempting any regulated SO_2 source from applicable limits on hours of operation for days it is solely burning natural gas. To qualify, the gas must have a heat content greater than 950 Btu/scf (British thermal unit per Standard cubic feet) and a sulfur content less than 0.6 pounds per million standard cubic feet, and thus must have negligible emissions (less than 0.0006 pounds per million Btu). The restrictions on operating rates were originally intended to reduce daily total sulfur dioxide emissions below the level associated with full capacity operation for sources designed to burn high sulfur fuels. While sources are burning natural gas instead they are emitting negligible sulfur dioxide. Thus, operating rate restrictions are not needed on such days to assure attainment. If another fuel is burned during any part of a calendar day (from midnight to midnight) the respective emission limits and operating rates would remain effective.

Strictly speaking, as Ohio's rule is written, the exemption is applied to all limitations in rules 3745–18–06 to 3745–18–94 for days a source is burning natural gas. That is, on these days a source is exempted from limitations on emission rates and stack heights as well as on hours of operation. However, the nominal exemptions from these other provisions are not meaningful in a practical sense. To qualify for he nominal exemption from emissions limits (which range from 0.15 to 9.5 pounds per million Btu), the source must burn a fuel with emissions more than 200 to 10,000 times lower than the otherwise applicable limits. Sources under qualifying conditions would also be nominally exempt from requirements to vent emissions from stacks of at least a mandated minimum height, but it is unlikely that a source would vent its gas burning emissions from a lower height than it vents its emissions from higher sulfur rules, and in any case the emissions from burning qualifying gas are sufficiently low that stack height restrictions should be unnecessary to assure attainment. Consequently, the exemption from restrictions on operating hours is the only type of exemption in this submittal with practical significance and thus is being approved.

C. Other Provisions of Rule 3745–18–06

The third revision to Ohio's State Implementation Plan for sulfur dioxide is an approval of previous revisions to rule OAC 3745–18–06, entitled general emission limit provisions. This includes paragraph (F), relating to stationary gas turbines, and paragraph (G), relating to stationary internal combustion engines. Neither gas turbines nor internal combustion engines are steam-generating units. They, therefore, did not have general emission limits in the SO_2 rules except for a few cases where peaking units were included at power plants. These emission limits will strengthen the SIP because they add federally-enforceable emission limits to source categories that heretofore had no limits.

III. Final Action

USEPA is approving Ohio EPA's December 9, 1996, submittal to replace the federally promulgated site specific SO_2 limits for the Sun Oil Company facility with State rules modified to reduce limits for two sources in conjunction with removal of a prohibition against simultaneous operation of three sources.

USEPA is also approving an exemption from limits on operating hours and rates for sources on days when only natural gas is burned. Finally, USEPA is approving the addition of emission limits for stationary gas turbines and stationary internal combustion engines.

The USEPA is publishing this action without prior proposal because the USEPA views this as a noncontroversial revision and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, the EPA is proposing to approve the SIP revision should specified written adverse or critical comments be filed. This action will become effective without further notice unless the EPA receives relevant adverse written comment on the parallel proposed rule (published in the proposed rules section of this **Federal**

Register) by April 29, 1998. Should the USEPA receive such comments, it will publish a final rule informing the public that this action did not take effect. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on May 29, 1998.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The USEPA 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.

IV. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA 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, USEPA 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.

SIP approvals under sections 110 and subchapter I, part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

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

D. 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. USEPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Audit Privilege

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

F. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of appeals for the appropriate circuit by May 29, 1998. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2))

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Reporting and recordkeeping requirements, Sulfur dioxide.

Dated February 23, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

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

Subpart KK—Ohio

2. Section 52.1870 is amended by adding paragraph (c)(116) to read as follows:

§ 52.1870 Identification of plan.

* * * * *

(c) * * *

(116) On December 9, 1996, the Ohio Environmental Protection Agency submitted two revisions to its sulfur dioxide rules. The first revision provides adjusted, State adopted limits for a Sun Oil Company facility. The second revision, applicable Statewide, exempts sources from operating hour limits on days when only natural gas is burned. Further, by letter of December 15, 1997, the State requested that U.S. Environmental Protection Agency address the addition of emission limits for stationary gas turbines and stationary internal combustion engines in rule 3745–18–06 that have been adopted previously.

(i) *Incorporation by reference.* (A) Ohio Administrative Code (OAC) rule 3745–18–54 (O) and OAC rule 3745–18–06, adopted October 7, 1996, effective October 31, 1996.

3. Section 52.1881 is amended by revising paragraphs (a)(4) and (a)(8) to read as follows:

§ 52.1881 Control strategy: Sulfur oxides (sulfur dioxide).

(a) * * *

(4) Approval-USEPA approves the sulfur dioxide emission limits for the

following counties: Adams County (except Dayton Power & Light-Stuart), Allen County (except Cairo Chemical), Ashland County, Ashtabula County, Athens County, Auglaize County, Belmont County, Brown County, Carroll County, Champaign County, Clark County, Clermont County, (except Cincinnati Gas & Electric-Beckjord), Clinton County, Columbiana County, Coshocton County, (except Columbus & Southern Ohio Electric-Conesville), Crawford County, Darke County, Defiance County, Delaware County, Erie County, Fairfield County, Fayette County, Fulton County, Gallia County (except Ohio Valley Electric Company-Kyger Creek and Ohio Power-Gavin), Geauga County, Greene County, Guernsey County, Hamilton County, Hancock County, Hardin County, Harrison County, Henry County, Highland County, Hocking County, Holmes County, Huron County, Jackson County, Jefferson County, Knox County, Lake County (except Ohio Rubber, Cleveland Electric Illuminating Company-Eastlake, and Painesville Municipal Boiler #5), Lawrence County (except Allied Chemical-South Point), Licking County, Logan County, Lorain County (except Ohio Edision-Edgewater, Cleveland Electric Illuminating-Avon Lake, U.S. Steel-Lorain, and B.F. Goodrich), Lucas County (except Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company), Madison County, Marion County, Medina County, Meigs County, Mercer County, Miami County, Monroe County, Morgan County, Montgomery County (except Bergstrom Paper, Miami Paper, Bergstrom Paper, Morrow County, Muskingum County, Noble County, Ottawa County, Paulding County, Perry County, Pickaway County, Pike County (except Portsmouth Gaseous Diffusion Plant), Portage County, Preble County, Putnam County, Richland County, Ross County (except Mead Corporation), Sandusky County (except Martin Marietta Chemicals), Scioto County, Seneca County, Shelby County, Trumball County, Tuscarawas County, Union County, Van Wert County, Vinton County, Warren County, Washington County (except Shell Chemical), Wayne County, Williams County, Wood County (except Libbey-Owens-Ford Plants Nos. 4 and 8 and No. 6), and Wyandot County.

* * * * *

(8) No Action-USEPA is neither approving nor disapproving the emission limitations for the following counties on sources pending further review: Adams County (Dayton Power & Light-Stuart), Allen County (Cairo Chemical), Butler County, Clermont County (Cincinnati Gas & Electric-Beckjord), Coshocton County (Columbus & Southern Ohio Electric-Conesville), Cuyahoga County, Franklin County, Gallia County (Ohio Valley Electric Company-Kyger Creek, and Ohio Power-Gavin), Lake County (Ohio Rubber, Cleveland Electric Illuminating Company-Eastlake, and Painesville Municipal-Boiler #5), Lawrence County (Allied Chemical-South Point), Lorain County (Ohio Edison-Edgewater Plant, Cleveland Electric Illuminating Avon Lake, U.S. Steel-Lorain, and B.F. Goodrich), Lucas County (Gulf Oil Company, Coulton Chemical Company, Phillips Chemical Company and Sun Oil Company), Mahoning County, Montgomery County (Bergstrom Paper and Miami Paper), Pike County (Portsmouth Gaseous Diffusion Plant), Stark County, Washington County (Shell Chemical Company), and Wood County (Libbey-Owens-Ford Plants Nos. 4 and 8 and No. 6).

* * * * *

[FR Doc. 98–7759 Filed 3–27–98; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0068b; FRL–5987–3]

Interim Final Determination That State has Corrected the Deficiency; State of California; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Elsewhere in today's **Federal Register**, EPA has published a proposed rulemking to fully approve the State of California's submittal of its State implementation plan (SIP) revision concerning San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) Rule 4401. Based on the proposed full approval, EPA is making an interim final determination by this action that the State has corrected the deficiencies for which a sanctions clock began on September 27, 1996. This action will defer the imposition of the offset sanction and defer the imposition of the highway sanction. Although this action is effective upon publication, EPA will take comment. If no relevant adverse comments are received on EPA's proposed approval of the State's submittal, EPA will finalize the approval of Rule 4401 and will also finalize the determination that the State has corrected the deficiencies that started the sanctions clock. If relevant adverse comments are received on EPA's proposed approval of Rule 4401 and this interim final action, EPA will publish a final determination taking into consideration any comments received.

DATES: This action is effective March 30, 1998. Comments must be received by April 29, 1998.

ADDRESSES: Comments should be sent to Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. EPA Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Copies of the rule and EPA's evaluation report, which are the basis for this action, are available for public review at the above address. Copies of the submitted rule are also available for inspection at the following locations:

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

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

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

SUPPLEMENTARY INFORMATION:

I. Background

On January 28, 1992, the State submitted SJVUAPCD Rule 465.1 as a revision to the SIP, which EPA disapproved in part on August 28, 1996. *See* 61 FR 44161. EPA's disapproval action started an 18-month clock for the imposition of one sanction (followed by a second sanction 6 months later) and a 24-month clock for promulgation of a Federal implementation plan (FIP). The State subsequently submitted a revised rule on March 10, 1998, in the form of SJVUAPCD Rule 4401, adopted on January 15, 1998. In the Proposed Rules section of today's **Federal Register**. EPA has proposed full approval of SJVUAPCD Rule 4401.

Based on the proposed full approval set forth in today's **Federal Register**, EPA believes that it is more likely than not that the State has corrected the original disapproval deficiencies. Therefore, EPA is taking this interim final action, effective on publication, finding that the State has corrected the deficiencies. However, EPA is also providing the public with an opportunity to comment on this action. If, based on any comments on this action or any comments on EPA's

proposed full approval of SJVUAPCD Rule 4401, EPA determines that the State's submittal is not fully approvable and this interim final action was inappropriate, EPA will either propose or take final action finding that the State has not corrected the original disapproval deficiencies. As appropriate, EPA will also issue an interim final determination or a final determination that the deficiencies have been corrected.

This action does not stop the sanctions clock that started for this area on September 27, 1996. However, this action will defer the imposition of the offsets sanction and will defer the imposition of the highway sanction. *See* 59 FR 39832 (August 4, 1994). If EPA takes final action to fully approve Rule 4401, such action will permanently stop the sanctions clock and will permanently lift any imposed, stayed or deferred sanctions. If EPA receives adverse comments and EPA subsequently determines that the State, in fact, did not correct the disapproval deficiencies, EPA will also determine that the State did not correct the deficiencies and the sanctions consequences described in the sanctions rule will apply. *See* 59 FR 39832, codified at 40 CFR 52.31.

II. EPA Action

EPA is taking interim final action finding that the State has corrected the disapproval deficiencies that started the sanctions clock. Based on this action, impositions of the offset sanction will be deferred and imposition of the highway sanction will be deferred until EPA's final action fully approving SJVUAPCD Rule 4401 becomes effective or until EPA takes action proposing or finalizing disapproval in whole or part the State submittal. If EPA takes final action fully approving SJVUAPCD Rule 4401, any sanctions clocks will be permanently stopped and any imposed, stayed or deferred sanctions will be permanently lifted upon the effective date of that final action.

Because EPA has preliminarily determined that the State has provided an approvable revision to its SIP, relief from sanctions should be provided as quickly as possible. Therefore, EPA is invoking the good cause exception to the 30-day notice requirement of the Administrative Procedure Act because the purpose of this document is to relieve a restriction. *See* 5 U.S.C. 553(d)(1).

III. Regulatory Process

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. section 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. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

This action temporarily relieves sources of an additional burden placed on them by the sanctions provisions of the CAA. Therefore, I certify that it does not have an impact on any small entities.

B. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to private sector, of $100 million or more.

Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

This interim final action temporarily relieves sources of an additional burden placed on them by the sanctions provisions of the CAA. This action does not impose any new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action. EPA has also determined that this interim final action 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.

C. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. However, section 808 provides that any rule for which the issuing agency for good cause finds (and incorporates that finding and a brief statement of reasons therefor 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 stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of March 30, 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 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).

D. Executive Order 12866

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental regulations, Reporting and recordkeeping, Ozone, Volatile organic compounds.

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

Dated: March 20, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98–8062 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–7240]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood

elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Associate Director for Mitigation reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arkansas: Washington	City of Springdale	January 9, 1998, January 16, 1998, *The Morning News.*	The Honorable Charles McKinney, Mayor, City of Springdale, Administration Building, 201 Spring Street, Springdale, Arkansas 72764.	December 11, 1997	050219
California:					
Contra Costa	City of Antioch	January 21, 1998, January 28, 1998, *Antioch Ledger Dispatch.*	The Honorable Mary Rocha, Mayor, City of Antioch, P.O. Box 5007, Antioch, California 94531–5007.	December 17, 1997	060026
San Bernardino	City of Ontario	January 14, 1998, January 21, 1998, *Inland Valley Daily Bulletin.*	The Honorable James Fatland, Mayor, City of Ontario, 303 East B Street Ontario, California 91764.	November 20, 1997	060278

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Shasta	City of Redding	January 15, 1998, January 22, 1998, *Record Searchlight.*	The Honorable Patricia Anderson, Mayor, City of Redding, 760 Parkview Avenue, Redding, California 96001.	April 22, 1998	060360
Los Angeles	City of Redondo Beach	January 15, 1998, January 22, 1998, *Redonod Reflex/South Bay Extra.*	The Honorable Gregory C. Hill, Mayor, City of Redondo Beach, 415 Diamond Street, Redondo Beach California 90277.	December 15, 1997	060150
Santa Clara	City of San Jose	January 16, 1998, January 23, 1998, *San Jose Mercury News.*	The Honorable Susan Hammer, Mayor, City of San Jose, 801 North First Street, Room 600, San Jose, California 95110.	December 4, 1997	060349
Santa Barbara	Unincorporated Areas	January 23, 1998, January 30, 1998, *Santa Barbara News-Press.*	The Honorable Naomi Schwartz, Chairperson, Santa Barbara County Board of Supervisors, 105 West Anapamu Street, Santa Barbara, California 93101.	January 7, 1998	060331
Santa Clara	Unincorporated Areas	January 16, 1998, January 23, 1998, *San Jose Mercury News.*	The Honorable James T. Beall, Jr., Chairman, Santa Clara County, Board of Supervisors, 70 West Hedding Street, East Wing, 10th Floor, San Jose, California 95110.	December 4, 1997	060337
Los Angeles	City of Torrance	January 15, 1998, January 22, 1998, *Daily Breeze.*	The Honorable Dee Hardison, Mayor, City of Torrance, 3031 Torrance Boulevard, Torrance, California 90503.	December 15, 1997	060165
Nevada: Clark	City of North Las Vegas.	January 8, 1998, January 15, 1998, *Las Vegas Review Journal.*	The Honorable Michael Montandon, Mayor, City of North Las Vegas, P.O. Box 4086, North Las Vegas, Nevada 89036.	November 20, 1997	320007
New Mexico:					
Bernalillo	City of Albuquerque	January 13, 1998, January 20, 1998, *Albuquerque Journal.*	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103–1293.	November 24, 1997	350002
Bernalillo	Unincorporated Areas	January 23, 1998, January 30, 1998, *Albuquerque Journal.*	The Honorable Tom Rutherford, Chairman, Bernalillo County Board of Commissioners, 2400 Broadway Southeast, Albuquerque, New Mexico 87102.	December 22, 1997	350001
Oklahoma: Oklahoma	City of Edmond	January 15, 1998, January 22, 1998, *The Edmond Evening Sun.*	The Honorable Bob Rudkin, Mayor, City of Edmond, P.O. Box 202, Edmond, Oklahoma 73083.	December 2, 1997	400252

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Oregon: Lincoln	Unincorporated Areas	January 7, 1998, January 14, 1998, *News Guard.*	The Honorable Don Lindly, Chairman, Lincoln County, Board of Commissioners, 225 West Olive, Room 110, Newport, Oregon 97365.	December 10, 1997	410129
Texas:					
Johnson	City of Burleson	January 14, 1998, January 21, 1998, *Burleson Star.*	The Honorable Rick Roper, Mayor, City of Burleson, City Hall, 141 West Renfro, Burleson, Texas 76028.	December 8, 1997	485459
Bexar	City of Castle Hills	January 8, 1998, January 15, 1998, *San Antonio Express.*	The Honorable Marty Rubin, Mayor, City of Castle Hills, 6915 West Avenue, San Antonio, Texas 78213.	December 2, 1997	480037
Montgomery	City of Conroe	January 23, 1998, January 30, 1998, *Conroe Courier.*	The Honorable Carter Moore, Mayor, City of Conroe, P.O. Box 3066, Conroe, Texas 77305.	January 8, 1998	480484
Tarrant	City of Grand Prairie	January 22, 1998, January 29, 1998, *Grand Prairie News.*	The Honorable Charles England, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053–4045.	December 30, 1997	485472
Tarrant, Dallas, and Ellis.	City of Grand Prairie	January 15, 1998, January 22, 1998, *Grand Prairie News.*	The Honorable Charles England, Mayor, City of Grand Prairie, P.O. Box 534045, Grand Prairie, Texas 75053–4045.	December 12, 1997	485472
Harris	Unincorporated Areas	January 22, 1998, January 29, 1998, *Houston Chronicle.*	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	January 9, 1998	480287
Dallas	City of Irving	January 22, 1998, January 29, 1998, *Irving News.*	The Honorable Morris H. Parrish, Mayor, City of Irving, P.O. Box 152288, Irving, Texas 75015–2288.	January 9, 1998	480180
Johnson	Unincorporated Areas	January 14, 1998, January 21, 1998, *Burleson Star.*	The Honorable Roger Harmon, Johnson County Judge, Johnson County Courthouse, #2 Main Street, Cleburne, Texas 76031.	December 8, 1997	480879
Bexar	City of San Antonio	January 13, 1998, January 20, 1998, *San Antonio Express-News.*	The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	April 20, 1998	480045
Bexar	City of San Antonio	January 8, 1998, January 15, 1998, *San Antonio Express-News.*	The Honorable Howard W. Peak, Mayor, City of San Antonio, P.O. Box 839966, San Antonio, Texas 78283–3966.	December 2, 1997	480045
Tarrant	City of Watauga	January 13, 1998, January 20, 1998, *Fort Worth Star-Telegram.*	The Honorable Hector Garcia, Mayor, City of Watauga, 7101 Whitley Road, Watauga, Texas 76148.	December 5, 1997	480613

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Utah: Salt Lake	Unincorporated Areas	January 14, 1998, January 21, 1998, *The Salt Lake Tribune.*	The Honorable Randy Horiuchi, Salt Lake County Commissioner, 2001 South State Street, Suite N2100, Salt Lake City, Utah 84190–1000.	December 17, 1997	490102

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: March 20, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8075 Filed 3–27–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register.**

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Arkansas	
Adona (City), Perry County (FEMA Docket No. 7184)	
Howell Creek:	
At confluence with Rocky Cypress Creek	*363
Approximately 400 feet upstream of Locust Road	*411
Rocky Cypress Creek:	
Approximately 6,950 feet downstream of Railroad Street	*339
Approximately 1,500 feet upstream of Railroad Street ..	*366
Maps are available for inspection at the City of Adona City Hall, Highway 10 West, Adona, Arkansas.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Houston (Town), Perry County (FEMA Docket No. 7184)	
West Fork Mill Creek:	
Approximately 450 feet upstream of Little Rock and Western Railroad bridge	*286
Approximately 1,650 feet upstream of Route 113 bridge	*293
West Fork Mill Creek Tributary 1:	
Approximately 200 feet above confluence with West Fork Mill Creek	*286
Approximately 250 feet upstream of Route 216 bridge	*297
West Fork Mill Creek Tributary 2:	
Approximately 650 feet upstream of confluence with West Fork Mill Creek	*287
Approximately 300 feet upstream of private drive (northern)	*295
Houston Creek:	
Approximately 1,400 feet downstream of Little Rock and Western Railroad bridge	*305
Approximately 1,100 feet upstream of Route 113 bridge	*329
Maps are available for inspection at the Town of Houston Town Hall, Main Street, Houston, Arkansas.	
Perry County (and Incorporated Areas) (FEMA Docket No. 7214)	
Cedar Creek:	
At confluence with Fourche La Fave River	+286
Approximately 700 feet upstream of Westgate Drive ..	+366
Casa Creek:	
At confluence with Big Creek	+326
Approximately 3,500 feet upstream of Third Street (State Highway 10)	+398
Grace Creek Tributary:	
Just downstream of Little Rock and Western Railroad	+352
Approximately 1,600 feet upstream of Third Street (State Highway 10)	+378
West Fork Mill Creek:	
At State Highway 60	+283
Approximately 2,000 feet upstream of Highway 113	+294
West Fork Mill Creek Tributary 1:	
At confluence with West Fork Mill Creek	+283
Houston Creek:	
Approximately 2,500 feet downstream of State Highway 60	+283
Approximately 1,700 feet upstream of Highway 113	+340
Rocky Cypress Creek:	
Approximately 2.2 miles downstream of confluence of Howell Creek	+324
Just downstream of confluence of Danner Creek ...	+372
Fourche La Fave River:	
At confluence with Arkansas River	+278
Approximately 3.2 miles upstream of State Highway 10	+285
Arkansas River:	
At Perry-Pulaski County border	+275
At Perry-Conway County border	+294
Maps are available for inspection at the Perry County Courthouse, Main Street, Perryville, Arkansas.	
Maps are available for inspection at the Town of Bigelow Town Hall, North Front Street, Bigelow, Arkansas.	
Maps are available for inspection at the City of Casa City Hall, State Highway 10, Casa, Arkansas.	
Maps are available for inspection at the Town of Fourche Town Hall, Fourche, Arkansas.	
Maps are available for inspection at the City of Perryville City Hall, Pine Street, Perryville, Arkansas.	
Maps are available for inspection at the City of Adona City Hall, Adona, Arkansas.	
Maps are available for inspection at the Town of Houston Town Hall, Highway 60, Houston, Arkansas.	
Pulaski County (Unincorporated Areas) (FEMA Docket No. 7234)	
Bringle Creek:	
Approximately 500 feet upstream of confluence with Maumelle River	*300
At confluence with Bringle Creek Tributary A	*345
Bringle Creek Tributary A:	
At confluence with Bringle Creek	*345
Approximately 1,600 feet above confluence with Bringle Creek	*364
Ferndale Creek:	
At confluence with Maumelle River	*368
Approximately 200 feet upstream of Ferndale Road	*368
Just upstream of Ferncliff Road	*442
Maps are available for inspection at 501 West Markham, Little Rock, Arkansas.	
California	
Bellflower (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of Rose Street and Lakewood Boulevard	*61
At the intersection of Artesia Freeway and Lakewood Boulevard	*67
At the intersection of Lakewood Boulevard and Alondra Street	*71
Maps are available for inspection at the City of Bellflower Planning Department, City Hall, 16600 Civic Center Drive, Bellflower, California.	
Agoura Hills (City), Los Angeles County (FEMA Docket No. 7234)	
Medea Creek:	
Approximately 975 feet upstream of Canwood Street	*859
Approximately 1,105 feet upstream of Canwood Street	*860
Approximately 750 feet upstream of Fountainwood Street	*947
Maps are available for inspection at the City of Agoura Hills Planning Department, City Hall, 30101 Agoura Court, Agoura Hills, California.	
Carson (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
Approximately 4,600 feet south of Sepulveda Boulevard bridge over Dominguez Channel	*13
At the Carson Street underpass beneath San Diego Freeway	*20
At the intersection of Prospect Avenue and Van Buren Street	*35
Just east of Compton Creek and west of Long Beach Freeway	*52
At the intersection of Carson Street and Wilmington Avenue	*3
Maps are available for inspection at the City of Carson Public Works Department, 701 East Carson Street, Carson, California.	
Colusa (City), Colusa County (FEMA Docket No. 7234)	
Colusa Trough:	
Approximately 600 feet downstream of State Highway 20	*50
Approximately 4,000 feet downstream of State Highway 20	*50
Maps are available for inspection at the City of Colusa Planning Department, 425 Webster Street, Colusa, California.	
Colusa County (Unincorporated Areas) (FEMA Docket No. 7234)	
Colusa Trough:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
At State Highway 20	*50
Approximately 10,850 feet upstream of Lurline Road	*55
Maps are available for inspection at the Colusa County Department of Planning and Building, 220 12th Street, Colusa, California.	
Compton (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
Approximately 1,200 feet south of Artesia Freeway just east of the Southern Pacific Railroad	*56
At the intersection of Long Beach Boulevard and Temple Avenue	*65
At the intersection of Long Beach Boulevard and Elm Street	*71
At the intersection of South San Antonio Avenue and East Compton Boulevard	*74
At Banning Street west of Santa Fe Avenue	*80
Maps are available for inspection at the City of Compton Planning Department, 205 South Willowbrook Avenue, Compton, California.	
Downey (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of Century Boulevard and Verdura Avenue	*81
At the intersection of Golden and Bixler Avenues	*83
Rio Hondo:	
Approximately 100 feet west of the intersection of Brock Avenue and Gardendale Street	*85
At the intersection of Bellflower Boulevard and Washburn Road	*100
At the intersection of Muller Street and Lakewood Boulevard	*118
At the intersection of Paramount Boulevard and Florence Avenue	*126
At the intersection of Telegraph Road and Lakewood Boulevard	*143
At the intersection of Patton Road and Cleta Street	#1
At the intersection of Downey Avenue and Texas Street	#2
Maps are available for inspection at the City of Downey City Hall, 11111 Brookshire Avenue, Downey, California.	
Gardena (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
Approximately 800 feet south of the intersection of 170th Street and Catalina Avenue	*20
Maps are available for inspection at the City of Gardena Community Development Department, 1700 West 162nd Street, Room 101, Gardena, California.	
Lakewood (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of Carson Street and Josie Avenue	*36
Approximately 700 feet south of the intersection of South Street and Lakewood Boulevard	*54
Approximately 400 feet north of the intersection of Lakewood Boulevard and Ashworth Street	*61
Just northeast of the intersection of Del Amo Boulevard and Palo Verde Avenue	#1
Maps are available for inspection at the City of Lakewood Community Development Department, City Hall, 5050 Clark Avenue, Lakewood, California.	
Long Beach (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of Second Street and Pacific Coast Highway	*11
Approximately 200 feet south of the intersection of Santa Fe Avenue and 23rd Street	*15
At the intersection of Willow and Magnolia Avenues	*23
Just upstream of the intersection of Wardlow Road and Bellflower Boulevard	*30
Just east of the Los Angeles River and south of San Diego Freeway	*38
At the intersection of Virginia Avenue and 48th Street	*50
At the intersection of Long Beach Freeway and Del Amo Boulevard	*52
At the intersection of Myrtle Avenue and 63rd Street	*57
At the intersection of Myrtle Avenue and 72nd Street	*68
Maps are available for inspection at the City of Long Beach Department of Public Works, 333 West Ocean Boulevard, Long Beach, California.	
Los Angeles (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of Alameda Street and Avalon Boulevard	*11
At Pacific Coast Highway bridge over Dominguez Channel	*12
At the intersection of Vermont Avenue and Artesia Freeway	*20
Approximately 2,000 feet south of San Diego Freeway	*27
Approximately 200 feet upstream of the Brooklyn Avenue bridge, just east of the Los Angeles River Channel	*297
Approximately 1,650 feet upstream of the Broadway bridge, just east of the Los Angeles River Channel	*311
Maps are available for inspection at the City of Los Angeles City Hall, 200 North Main Street, Room 305, Los Angeles, California.	
Los Angeles County (Unincorporated Areas) (FEMA Docket No. 7039)	
Los Angeles River:	
Approximately 1,600 feet south of the intersection of Westminster Avenue and Studebaker Road	*11
Approximately 500 feet south of the intersection of Westminster Avenue and Studebaker Road	*12
At the intersection of Del Amo Boulevard and Santa Fe Avenue	*41
At the intersection of Del Amo Boulevard and Susana Road	*52
Approximately 650 feet south of the intersection of Atlantic Avenue and Compton Boulevard	*68
At Long Beach Freeway just north of the Fernwood Avenue overpass	*85
Just west of the intersection of Del Amo Boulevard and Alameda Street	#3
Rio Hondo:	
Just east of the Los Angeles River, just upstream of Fernwood Avenue	*83
Just east of the Los Angeles River and just south of the Imperial Highway bridge	*94
Maps are available for inspection at the Los Angeles County Public Works Department, Planning Division, 900 South Fremont Avenue, 11th Floor, Los Angeles, California.	
Lynwood (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of McMillan Street and Atlantic Avenue	*75

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
At the intersection of Euclid Avenue and Peach Street	*78
At the intersection of Atlantic and Agnes Avenues	*81
At the intersection of Cortland Street and Louise Avenue	*85
At the intersection of Century Boulevard and Louise Avenue	*85
Maps are available for inspection at the City of Lynwood Department of Public Works, Engineering Division, City Hall Annex, 11330 Bullis Road, Lynwood, California.	
Montebello (City), Los Angeles County (FEMA Docket No. 7039)	
Rio Hondo:	
Just east of Rio Hondo Channel in line with Beach Street	*168
Just east of Rio Hondo Channel, 300 feet south of Beverly Boulevard	*184
Maps are available for inspection at the City of Montebello City Hall, 1600 West Beverly Boulevard, Montebello, California.	
Paramount (City), Los Angeles County (FEMA Docket No. 7039)	
Los Angeles River:	
At the intersection of South Downey Avenue and East Flower Street	*68
Four hundred feet north of the intersection of South Orange Avenue and East Alondra Boulevard	*71
At the intersection of East Golden Avenue and Obispo Avenue	*83
Just west of the Los Angeles River channel and south of the Union Pacific Railroad Bridge	*84
Rio Hondo:	
At the intersection of South Orizaba Avenue and East Golden Avenue	*83
At the intersection of South Orange Avenue and East Hogee Drive	*84
Approximately 200 feet northwest of the intersection of East Gardendale Street and South Brocks Avenue	*86
Maps are available for inspection at the City Public Works Yard, 15300 Downey Avenue, Paramount, California, and City Building Department, 16400 Colorado Avenue, Paramount, California.	
Pico Rivera (City), Los Angeles County (FEMA Docket No. 7039)	
Rio Hondo:	
Just upstream of the intersection of Rosemead Boulevard and Telegraph Road	*143
At the intersection of Loch Alene Avenue and Foxbury Way	*158
At the intersection of Rieshel Street and Picovista Road	*162
At the intersection of Calico and Friendship Avenues	*190
At the intersection of Mines and Cord Avenues	#1
Maps are available for inspection at the City of Pico Rivera Public Works Department, 6615 Passons Boulevard, Pico Rivera, California.	
South Gate (City), Los Angeles County (FEMA Docket No. 7039)	
Rio Hondo:	
At the intersection of Paramount Boulevard and Florence Avenue	*83
At the intersection of Imperial Highway and Garfield Place	*94
At the crossing of the Union Pacific Railroad and Miller Way	*108
At the intersection of Garfield Avenue and Firestone Boulevard	*109
At the Southern Pacific Railroad, just east of Rio Hondo Channel	*113
Los Angeles River:	
At the intersection of Century and Paramount Boulevards	*83
Maps are available for inspection at the Office of the City Clerk, South Gate City Hall, 8650 California Avenue, South Gate, California.	
Yolo County (Unincorporated Areas) (FEMA Docket No. 7064)	
Yolo Bypass:	
Approximately 17,000 feet downstream of the Southern Pacific Railroad	*26
Approximately 11,500 feet downstream of the Western Pacific Railroad	*28
Approximately 7,000 feet downstream of the Western Pacific Railroad	*29
Just upstream of the Western Pacific Railroad	*31
Approximately 16,000 feet downstream of Freemont Weir	*32
Approximately 7,500 feet downstream of Freemont Weir	*34
Just upstream of Freemont Weir	*39
Deep Ponding:	
Approximately 4,500 feet southeast of confluence of Sacramento Bypass and Tule Canal	*30
Area south of the Western Pacific Railroad and upstream of Sacramento Bypass, bounded by Yolo Bypass and the Sacramento River	*31
Area north of the Western Pacific Railroad, bounded by Yolo Bypass and the Sacramento River	*33
Sacramento Bypass:	
Approximately 4,000 feet downstream of the Western Pacific Railroad	*29
Just downstream of the Western Pacific Railroad	*30
Just upstream of Freeport Bridge	*25
Approximately 13,500 feet upstream of Freeport Bridge	*26
Approximately 27,000 feet upstream of Freeport Bridge	*28
Approximately 24,000 feet downstream of Interstate Route 5/Route 16	*31
Approximately 11,000 feet downstream of Interstate Route 5/Route 16	*32
Approximately 5,000 feet downstream of Interstate Route 5/Route 16	*34
Approximately 8,000 feet downstream of Interstate Route 5/Route 16	*36
Approximately 5,000 feet upstream of Interstate Route 5/Route 16	*37
Approximately 11,000 feet upstream of Interstate Route 5/Route 16	*38
Approximately 18,500 feet upstream of Interstate Route 5/Route 16	*39
Maps are available for inspection at the Yolo County Department of Public Works, 292 West Beamer Street, Woodland, California.	
Hawaii	
Maui County (FEMA Docket No. 7234)	
Pacific Ocean:	
At the intersection of Front and Baker Streets	*7
At the intersection of Front and Shaw Streets	*6
Approximately 3,300 feet south of confluence with Kauaula Stream	*9
Maps are available for inspection at the Maui County Planning Department, 250 South High Street, Wailuku, Hawaii.	
Idaho	
Bellevue (City), Blaine County (FEMA Docket No. 7234)	
Quigley Creek:	
At the intersection of Third and Cedar Streets	*5,187

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Approximately 380 feet upstream of Spruce Street	*5,199
Maps are available for inspection at the Building Inspector's Office, City Hall, 117 Pine Street, Bellevue, Idaho.	
Blaine County (Unincorporated Areas) (FEMA Docket No. 7234)	
Quigley Creek:	
At the intersection of Third and Cedar Streets	*5,187
Approximately 380 feet upstream of Spruce Street	*5,199
Maps are available for inspection at the Blaine County Planning and Zoning Department, Blaine County Courthouse, 206 First Avenue South, Hailey, Idaho.	
Louisiana	
Greenwood (Town), Caddo Parish (FEMA Docket No. 7234)	
Cross Bayou Tributary 1:	
Approximately 1,900 feet downstream of State Highway 79	*203
Approximately 1,600 feet upstream of U.S. Highway 80	*220
Cross Bayou Tributary 2:	
Approximately 800 feet downstream of Speedway Drive	*202
Approximately 3,000 feet upstream of U.S. Highway 80	*229
Cross Bayou Tributary 3:	
Approximately 100 feet downstream of the Union Pacific Railroad	*209
Approximately 1,000 feet upstream of U.S. Highway 80	*259
Gilmer Bayou Tributary 1:	
At limit of detailed study at the eastern corporate limits	*234
Approximately 6,000 feet above the eastern corporate limits	*265
Gilmer Bayou Tributary 2:	
Approximately 550 feet downstream of Waterwood Drive	*234
Approximately 3,000 feet upstream of Beebe Drive	*270
Gilmer Bayou Tributary 3:	
Approximately 1,750 feet downstream of Winburn Drive	*244
Approximately 2,250 feet upstream of Winburn Drive ...	*272
Maps are available for inspection at 9381 Greenwood Road, Greenwood, Louisiana.	
Oklahoma	
Allen (Town), Pontotoc and Hughes Counties (FEMA Docket No. 7234)	
Town Branch:	
Approximately 500 feet downstream of Commerce Street	*837
Approximately 1,500 feet upstream of "B" Street	*855
Maps are available for inspection at the Town of Allen Town Hall, Allen, Oklahoma.	
Oregon	
Troutdale (City), Multnomah County (FEMA Docket No. 7234)	
Beaver Creek:	
At Jackson Park Road	*40
Just upstream of Troutdale Road	*183
Approximately 200 feet downstream of Southeast Stark Street	*242
Maps are available for inspection at the City of Troutdale Community Development Department, 104 Southeast Kibling Avenue, Troutdale, Oregon.	
Wyoming	
Rock Springs (City), Sweetwater County (FEMA Docket No. 7128)	
Bitter Creek:	
Approximately 500 feet downstream of confluence with Killpecker Creek	*6,246
Approximately 1,000 feet downstream of the Union Pacific Railroad	*6,263
Maps are available for inspection at the City of Rock Springs Department of Public Works, 212 D Street, Rock Springs, Wyoming.	

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: March 20, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8074 Filed 3–27–98; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 95–184; MM Docket No. 92–260; FCC 97–376]

Cable Television Consumer Protection and Competition Act of 1992

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission amended its rules regarding cable home wiring and home run wiring for multichannel video programming distributors. 47 CFR 76.613, 76.802 and 76.804 contained new and modified information collection requirements and became effective on March 13, 1998. Compliance with 47 CFR 76.5, 76.620, 76.800, 76.805 and 76.806 also is required as of March 13, 1998.

DATES: The amendments to 47 CFR 76.613, 76.802 and 76.804, published at 62 FR 61016, became effective on March 13, 1998. Compliance with 47 CFR 76.5, 76.620, 76.800, 76.805 and 76.806, published at 62 FR 61016, is required as of March 13, 1998.

FOR FURTHER INFORMATION CONTACT: JoAnn Lucanik or Lynn Crakes, Cable Services Bureau, (202) 418–7200.

SUPPLEMENTARY INFORMATION:

1. On October 9, 1997, the Commission adopted an order amending its rules regarding the disposition of cable home wiring and home run wiring of multichannel video programming distributors, signal leakage and interference from a multichannel video programming distributor, access to molding and customer pre-termination access to cable home wiring. See 62 FR 61016, November 14, 1997. Because amended §§76.613, 76.802 and 76.804 of the Commission's rules imposed new or modified information collection requirements, they could not become effective until approved by the Office of Management and Budget ("OMB"). In addition, compliance with the amendments to 47 CFR 76.5, 76.620, 76.800, 76.805, and 76.806, was not required until OMB approval of the information collection requirements in 47 CFR 76.613, 76.802 and 76.804. OMB approved the rule changes on March 13, 1998.

2. The order stated that the rules as amended would become effective upon approval by OMB, and that the Commission would publish a document announcing the effective date of the rules. The amendments to 47 CFR 76.613, 76.802 and 76.804 became effective on March 13, 1998. Compliance with 47 CFR 76.5, 76.620, 76.800, 76.805 and 76.806 is also required as of March 13, 1998.

List of Subjects in 47 CFR Part 76

Administrative practice and procedure, Cable television, Reporting and recordkeeping requirements.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–8185 Filed 3–27–98; 8:45 am]

BILLING CODE 6712–01–F

Proposed Rules

Federal Register
Vol. 63, No. 60
Monday, March 30, 1998

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

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 800

RIN 0580–AA55

Official/Unofficial Weighing Service

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) proposes to amend portions of the General Regulations under the United States Grain Standards Act, as amended (USGSA), to allow official agencies to provide both official and unofficial weighing within their assigned area of responsibility, but not on the same mode of conveyance at the same facility. This will provide agencies with more flexibility in providing the weighing services needed by the grain industry. Currently, agencies designated by GIPSA to provide official weighing services cannot provide similar unofficial services.

DATES: Comments must be submitted on or before May 29, 1998.

ADDRESSES: All comments concerning this proposed regulation should be addressed to George Wollam, GIPSA–FGIS, USDA, STOP 3649, 1400 Independence Avenue, SW, Washington, D.C. 20250, or FAX (202) 720–4628. All comments received will be made available for public inspection during business hours in Room 0623-South Building, 1400 Independence Avenue, SW, Washington, D.C. 20250 (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: George Wollam (202) 720–0292, at the above address.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by OMB.

Executive Order 12988

This amended rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have a retroactive effect. The USGSA provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this rule will not preempt any State or local laws, regulations, or policies unless they present irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Effect on Small Entities

James R. Baker, Administrator, GIPSA, has determined that this proposal will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This proposed rule would allow official agencies to provide both official and unofficial weighing services within their assigned area of responsibility, but not on the same mode of conveyance at the same facility. Currently, official agencies designated to provide official weighing services cannot provide similar unofficial services. There are presently 65 agencies designated by GIPSA, 57 private entities and 8 State agencies. Of the 65 official agencies, 14 are designated to perform official weighing services. It is estimated that 59 agencies perform official inspection and unofficial weighing while 8 have been allowed by GIPSA to perform both official weighing and unofficial weighing in addition to providing official inspection services. Most of these agencies would be considered small entities under Small Business Administration criteria. Agencies designated to provide official services would be afforded more flexibility in delivering the weighing services needed by the domestic grain market. Existing official agencies not designated to perform official weighing services would continue to provide unofficial weighing services. While the extent to which official agencies will choose to provide unofficial services is difficult to quantify and may depend upon many variables, it is believed that the proposed rule would have a beneficial effect on these agencies and the grain industry as a whole.

Information Collection and Record keeping Requirements

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection and record keeping requirements in Part 800 have been approved previously by OMB and assigned OMB No. 0580–0013.

Background

A direct final rule (60 FR 39242) was published on August 2, 1995, which notified the public of amendments to those regulations that prohibit official agencies from providing official weighing service when they provide similar unofficial service. GIPSA had planned to allow agencies to do both official and unofficial weighing within their assigned areas, but not at the same facility. Two written adverse comments in response to the direct final rule were received. One comment noted that GIPSA did not allow official agencies designated to perform both official weighing services and unofficial weighing because of possible confusion between the two; that the proposed rule was an attempt by a Federal agency to be in direct competition with the private sector; and questioned GIPSA's belief that there was a lack of available supervising agencies in the weighing area. The other comment also disagreed that there was a decrease in the availability of unofficial weighing supervision services and expressed concern regarding intrusion by a Federal agency into the private sector. The concerns raised by these comments are discussed in the following paragraphs.

The direct final rule was inadvertently not withdrawn prior to its effective date. A final rule was published (60 FR 65236) on December 19, 1995, which reinstated the regulations that were in effect prior to the effective date of the direct final rule. Therefore, GIPSA is now requesting public comment on allowing agencies and grain elevators to perform both official and unofficial weighing services, except at the same facility.

Designated agencies are agencies granted authority under the USGSA to provide official inspection service, or

Class X or Class Y weighing services or both, at locations other than export port locations. Most (88 percent) of these agencies are designated for inspection services only. The reason is that before 1976, most grain inspection agencies were already providing weighing as an additional service to grain inspection. These agencies were affiliated with and supervised by the then existing weighing and inspection bureaus under the direction of the Association of American Railroads, local grain exchanges, boards of trade, and various State programs. After the 1976 amendment to the USGSA, weighing performed by the grain inspection agencies became unofficial weighing. Most agencies continued their unofficial weighing and applied for inspection designations only.

However, since 1976, many inspection and weighing bureaus, boards of trade, and the Association of American Railroads have ceased providing supervision of the unofficial weighing services. Unofficial weighing services are currently still available from a variety of industry sources, including 51 of the agencies already designated by GIPSA for inspection services only.

However, we believe that there is a need for more access to Class X or Class Y weighing services that are provided for under the authority of the USGSA. To that end, since 1991, after receiving official weighing requests in several areas, GIPSA's Administrator (under § 800.2 of the regulations) has allowed 8 designated official agencies to provide both official and unofficial weighing. If allowed to provide both types of service, many more agencies that are now designated for official inspection only could also provide official weighing service. Further, designated agencies can generally provide Class X and Class Y weighing at a lower cost than GIPSA field offices due to their proximity to the grain facilities.

Initially, GIPSA did not allow agencies to provide both types of service because confusion might result on the part of the grain industry and the official agencies themselves as to which type of service an official agency was providing. However, in reevaluating this policy as it applies to weighing and evaluating the case-by-case situations where it has been allowed since 1991, GIPSA has found that such confusion has not been a factor, especially when GIPSA has separated official and unofficial weighing by not allowing agencies to provide both types of service at the same facility. The requirements for performing official weighing are easily distinguishable from unofficial weighing. Official weighing requires that: (1) Scales be tested by GIPSA; (2) designated agencies follow GIPSA-prescribed procedures to maintain proper operation and accurate weighing; and (3) designated agencies issue GIPSA-approved official grain weight certificates certifying the accuracy of weighing. Since official and unofficial weighing services have distinct requirements, designated agencies should have little problem in maintaining the separation of official and unofficial weighing, as long as it is not on the same mode of conveyance. In addition, GIPSA oversight conducted by the field offices and appropriate headquarters units should be able to detect any problems arising from the change.

Accordingly, GIPSA disagrees with the comments received as a result of the direct final rule. GIPSA proposes to change the weighing provisions of the regulations. This proposed rule does not change the requirements for inspection services. Following the close of the comment period, the comments will be considered and a final action addressing the comments will be published in the **Federal Register.**

List of Subjects in 7 CFR Part 800

Administrative practice and procedure, Conflict of interests, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Proposed Action

For reasons set forth in the preamble, 7 CFR Part 800 is proposed to be amended as follows:

PART 800—GENERAL REGULATIONS

1. The authority citation for Part 800 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

2. Section 800.76(a) is revised to read as follows:

§ 800.76 Prohibited services; restricted services.

(a) *Prohibited services.* No agency shall perform any inspection function or provide any inspection service on the basis of unofficial standards, procedures, factors, or criteria if the agency is designated or authorized to perform the service or provide the service on an official basis under the Act. No agency shall perform official and unofficial weighing on the same mode of conveyance at the same facility.

* * * * *

3. Section 800.186(c)(3) introductory text is revised to read as follows:

§ 800.186 Standards of conduct.

* * * * *

(c) * * *

(3) Except as provided in § 800.76(a), engage in any outside (unofficial) work or activity that:

* * * * *

4. Section 800.196(g)(6)(ii) is revised to read as follows:

§ 800.196 Designations.

* * * * *

(g) * * *

(6) * * *

(ii) *Unofficial activities.* Except as provided in § 800.76(a), the agency or personnel employed by the agency shall not perform any unofficial service that is the same as the official services covered by the designation.

* * * * *

Dated: March 20, 1998.

James R. Baker,

Administrator.

[FR Doc. 98–7940 Filed 3–27–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–59–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require replacement of the de-icing system timer with a new improved timer. This proposal is prompted by reports of a short circuit in the propeller and/or de-ice wiring, and subsequent failure of the timer. The actions specified by the proposed AD are intended to prevent propeller disbonding due to short circuiting in the de-icing wiring system, which could result in reduced controllability of the airplane.

DATES: Comments must be received April 29, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–

59–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from FAIRCHILD DORNIER, DORNIER Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 98–NM–59–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–59–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that it has received reports indicating that a failure sequence can occur, consisting of a short circuit in the propeller and/or airframe de-ice wiring, and subsequent failure of the timer. This failure could result in constant electrical current flow through the closed relay and shorted circuit, even if the aircraft de-ice switch is turned off. A constant electrical current could result in propeller blade overheat and consequent propeller blade disbonding. This condition, if not corrected, could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Service Bulletin SB–328–30–164, dated April 30, 1996, which describes procedures for replacement of the de-icing system timer with a new improved timer. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, approved this service bulletin.

FAA's Conclusions

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 25 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed replacement, and that the average labor rate is $60 per work hour. Required parts would be furnished by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,500, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier Luftfahrt GmbH: Docket 98–NM–59–AD.

Applicability: Model 328–100 series airplanes, serial numbers 3005 through 3039 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent propeller disbonding due to short circuiting in the de-icing wiring system, which could result in reduced controllability of the airplane, accomplish the following:

(a) Within 8 months after the effective date of this AD, replace the de-icing system timer with a new improved timer in accordance with Dornier Service Bulletin SB–328–30–164, dated April 30, 1996.

(b) As of the effective date of this AD, no person shall install a de-icing system timer having part number A–5639–2 or 4E2947–2, on any airplane.

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

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

(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.

Issued in Renton, Washington, on March 24, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–8223 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–AGL–21]

Proposed Establishment of Class E Airspace; Minot, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace at Minot, ND. Controlled airspace extending upward from the surface is needed to contain aircraft executing instrument flight procedures and provide a safer operating environment when the control tower is closed. The airport meets the minimum communications and weather observation and reporting requirements for controlled airspace extending upward from the surface. This action proposes to create controlled airspace with a 4.2-mile radius for this airport.

DATES: Comments must be received on or before May 18, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 98–AGL–21, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 Devon Avenue, Des Plaines, Illinois.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–AGL–21." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, S.W., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Minot, ND, to accommodate FAR Part 121 and Part 135 air carrier aircraft executing instrument flight rules procedure during periods when the control tower is closed. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from the surface of the earth are published in paragraph

6002 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

AGL ND E2 Minot, ND [New]

Minot International Airport, ND
(Lat. 48° 15′ 34″ N., long, 101° 16′ 52″ W.)

Within a 4.2-mile radius of the Minot International Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice of Airman. The effective date and time will thereafter be continuously published in the Airport/facility Directory.

* * * * *

Issued in Des Plaines, Illinois on March 17, 1998.

Maureen Woods,

Manager, Air Traffic Division.

[FR Doc. 98–8143 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ACE–15]

Proposed Amendment to Class E Airspace; Garden City, KS; Liberal, KS; Fort Dodge, IA; Fort Madison, IA; Columbus, NE; Grand Island, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Class E airspace area at Garden City, KS; Liberal, KS; Fort Dodge, IA; Fort Madison, IA; Columbus, NE, and Grand Island, NE. A review of the Class E airspace designations for the airports listed above indicates they do not meet the criteria for 700 feet Above Ground Level (AGL) airspace required for diverse departures as specified in FAA Order 7400.2D. The areas are enlarged to conform to the criteria of FAA Order 7400.2D. The Airport Reference Points (ARPs) for Garden City Regional Airport, KS, and Columbus Municipal Airport, NE, are amended and included in this document. The Instrument Landing System (ILS) and coordinates for Grand Island, Central Nebraska Airport, NE, and Columbus Municipal Airport, NE, are added to the airspace designations. The name of the Garden City Municipal Airport, KS, has been changed to the Garden City Regional Airport, KS. The intended effect of this rule is to comply with the criteria of FAA Order 7400.2D, amend the appropriate ARPs, add the ILSs and coordinates, and to provide additional controlled Class E airspace for aircraft operating under Instrument Flight Rules.

DATES: Comments must be received on or before June 1, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ACE–520, Federal Aviation Administration, Docket No. 98–ACE–15, 601 East 12th Street, Kansas City, MO 64106.

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

An informal docket may also be examined during normal business hours in the office of the Manager, Airspace Branch, Air Traffic Division, at the address listed above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above.

Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–ACE–15." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the procedures.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to amend the Class E airspace areas at Garden City Regional Airport, KS; Liberal Municipal Airport, KS; Fort Dodge Regional Airport, IA; Fort Madison Municipal Airport, IA; Columbus Municipal Airport, NE; and Grand Island, Central Nebraska Airport, NE. A review of the Class E airspace designations for these airports indicates they do not meet the criteria for 700 feet AGL airspace required for diverse departures as specified in FAA Order 7400.2D. The criteria in FAA Order 7400.2D for an aircraft to reach 1200 feet AGL. is based on a standard climb gradient of 200 feet per mile, plus the distance from the ARP to the end of the outermost runway. Any fractional part of a mile is converted to the next higher tenth of a mile. The Class E surface area designations for Garden City-Regional Airport, KS, and Columbus Municipal Airport, NE, include the new ARPs. The amendment to Class E airspace designations for the airports listed above, will meet the criteria of FAA Order 7400.2D, amend the appropriate ARPs, add the ILSs and coordinates, provide additional controlled airspace at the above 700 feet AGL, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The areas will be depicted on appropriate aeronautical charts. Class E surface airspace areas designated as a surface area for an airport are published in paragraph 6002, and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend part 71 of the Code of Federal Regulations (14 CFR part 71) as follows:

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ACE KS E2 Garden City, KS [Revised]

Garden City Regional Airport, KS
(lat. 37°55'39" N., long. 100°43'28" W.)
Garden City VORTAC
(lat. 37°55'09" N., long. 100°43'30" W.)

Within a 4.1-mile radius of Garden City Regional Airport and within 2.2 miles each side of the Garden City VORTAC 004° radial extending from the 4.1-mile radius to 7 miles north of the VORTAC and with 2.2 miles each side of the Garden City VORTAC 171° Radial extending from the 4.1-mile radius to 5 miles south of the VORTAC.

* * * * *

ACE KS E2 Liberal, KS [Revised]

Liberal Municipal Airport, KS
(Lat. 37°02'39" N., long. 100°57'36" W.)
Liberal VORTAC
(Lat. 37°02'40" N., long. 100°58'16" W.)

Within a 4.2-mile radius of Liberal Municipal Airport and within 1.8 miles each side of the Liberal VORTAC 027° radial extending from the 4.2-mile radius to 7 miles northeast of the VORTAC and within 1.8 miles each side of the Liberal 153° radial extending from the 4.2-mile radius to 7 miles southeast of the VORTAC and within 2.6 miles each side of the Liberal VORTAC 206° radial extending from the VORTAC to 7.4 miles southwest of the VORTAC. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

ACE NE E2 Columbus, NE [Revised]

Columbus Municipal Airport, NE
(Lat. 41°26'52" N., long. 97°20'24" W.)
Columbus VOR/CME
(Lat. 41°27'00" N., long. 97°20'27 " W.)

Within a 4-mile radius of Columbus Municipal Airport and within 2.6 miles each side of the 157° radial of the Columbus VOR/DME extending from the 4-mile radius to 8.7 miles southeast of the VOR/DME and within 2.6 miles each side of the 317° radial of the Columbus VOR/DME extending from the 4-mile radius to 7.4 miles northwest of the VOR/DME and within 3.5 miles each side of the 330° bearing from the Columbus Municipal Airport extending from the 4-mile radius to 10.5 miles northwest of the Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

ACE KS E5 Garden City, KS [Revised]

Garden City Regional Airport, KS
(Lat. 37°55'39" N., long. 100°43'28" W.)
Garden City VORTAC
(Lat. 37°55'09" N., long. 100°43'30" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Garden City Regional Airport and within 4 miles east and 8 miles west of the 004° radial of the Garden City VORTAC extending from the airport to 16 miles north of the VORTAC.

* * * * *

ACE KS E5 Liberal, KS [Revised]

Liberal Municipal Airport, KS
(Lat. 37°02'39" N., long. 100°57'36" W.)
Liberal VORTAC
(Lat. 37°02'40" N., long. 100°58'16" W.)
Liberal Municipal Airport ILS
(Lat. 37°03'27" N., long. 100°57'23" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Liberal Municipal Airport and within 2.6 miles each side of the 027° radial of the Liberal VORTAC extending from the 6.4-mile radius to 8.7 miles northeast of the VORTAC and within 2.6 miles each side of the 153° radial of the Liberal VORTAC extending from the 6.4-mile radius to 8.7 miles southeast of the VORTAC and within 3 miles either side of the ILS localizer course extending from the 6.4-mile radius to 12 miles south of the airport and within 3 miles

each side of the 206° radial of the Liberal VORTAC extending from the 6.4-mile radius to 8.7 miles southwest of the VORTAC.

* * * * *

ACE IA E5 Fort Dodge, IA [Revised]

Fort Dodge Regional Airport, IA
(Lat. 42°33'05" N., long. 94°11'33" W.)

That airspace extending upward from 700 fee above the surface within a 6.7-mile radius of the Fort Dodge Regional Airport.

* * * * *

ACE IA E5 Fort Madison, IA [Revised]

Fort Madison Municipal Airport, IA
(lat. 40°39'33" N., long. 91°19'37" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Fort Madison Municipal Airport and within 1.8 miles each side of the 078° bearing from the Fort Madison Municipal Airport extending from the 6.4-mile radius to 8.2 miles northeast of the airport.

* * * * *

ACE NE E5 Columbus, NE [Revised]

Columbus Municipal Airport, NE
(lat. 41°26'52" N., long. 97°20'24" W.)
Columbus VOR/DME
(lat. 41°27'00" N., long. 97°20'27" W.)
Columbus Municipal Airport ILS
(lat. 41°26'25" N., long. 97°20'12" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Columbus Municipal Airport and within 4.2 miles each side of the 157° radial of the Columbus VOR/DME extending from the 6.6-mile radius to 9.5 miles southeast of the VOR/DME and within 4 miles each side of the Columbus ILS localizer course extending from the 6.6-mile radius to 10.5 miles northwest of the airport.

* * * * *

ACE NE E5 Grand Island, NE [Revised]

Grand Island, Central Nebraska Regional Airport, NE
(lat. 40°58'03" N., long. 98°18'31" W.)
Grand Island VORTAC
(lat. 40°59'03" N., long. 98°18'53" W.)
Grand Island, Central Nebraska Regional Airport ILS
(lat. 40°58'55" N., long. 98°18'53" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Central Nebraska Regional Airport and within 4 miles each side of the Grand Island ILS localizer course extending from the 6.6-mile to 8.7 miles south of the airport and within 4 miles northeast and 6 miles southwest of the 294° radial of the Grand Island VORTAC extending from the 6.6-mile radius to 16 miles northwest of the VORTAC and within 4 miles east and 6 miles west of the 360° radial of the Grand Island VORTAC extending from the 6.6-mile radius to 16 miles north of the VORTAC

* * * * *

Issued in Kansas City, MO, on March 9, 1998.

Jack B. Skelton,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 98–8142 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ASO–3]

Proposed Amendment of Class E Airspace; Fernandina Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Fernandina Beach, FL. A Global Positioning System (GPS) Runway (RWY) 13 Standard Instrument Approach Procedure (SIAP) has been developed for Fernandina Beach Municipal Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Fernandina Beach Municipal Airport.

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

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 98–ASO–3, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–ASO–3," The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Fernandina Beach, FL. A GPS RWY 13 SIAP has been developed for Fernandina Beach Municipal Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Fernandina Beach Airport. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document

would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ASO FL E5 Fernandina Beach, FL [Revised]

Fernandina Beach Municipal Airport, FL
(lat. 30°36'35"N, long. 81°27'38"W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.6-mile radius of Fernandina Beach Municipal Airport.

* * * * *

Issued in College Park, Georgia, on March 18, 1998.

Wade T. Carpenter,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 98–8269 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98–ANM–02]

Proposed Revision of Class E Airspace; Cortez, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This proposal would provide additional controlled airspace to accommodate the development of two new Standard Instrument Approach Procedures (SIAP) utilizing the Global Positioning System (GPS) at the Cortez Municipal Airport. These new SIAP's require airspace extending upward from 700 feet above the surface in order to contain associated holding procedures.

DATES: Comments must be received on or before May 14, 1998.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 98–ANM–02, 1601 Lind Avenue SW, Renton, Washington 98055–4056.

The official docket may be examined in the office of the Assistant Chief Counsel for the Northwest Mountain Region at the same address.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

FOR FURTHER INFORMATION CONTACT: Dennis Ripley, ANM–520.6, Federal Aviation Administration, Docket No. 98–ANM–02, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone number: (425) 227–2527.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 98–ANM–02." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW, Renton, Washington 98055–4056. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR 71) to modify Class E airspace at Cortez Municipal Airport, Cortez, CO. This amendment would provide additional airspace necessary to fully encompass the holding patterns for the GPS Runway 3 and the GPS Runway 21 SIAP. The FAA establishes Class E airspace extending upward from 700 feet AGL, where necessary, to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide safe and efficient use of the navigable airspace, and to promote safe flight operations under Instrument Flight Rules (IFR) at the Cortez Municipal Airport and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700 feet or more above the surface of the earth, are published in Paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

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

* * * * *

ANM CO E5 Cortez, CO [Revised]

Cortez Municipal Airport, CO
(Lat. 37°18′11″N, long. 108°37′41″W)
Cortez VOR/DME
(Lat. 37°23′23″N, long. 108°33′43″W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Cortez Municipal Airport, and within 3.1 miles each side of the Cortez VOR/DME 184° and 004° radials extending from the 7-mile radius to 10.1 miles north of the VOR/DME; that airspace extending upward from 1,200 feet above the surface beginning at lat. 36°34′50″N, long. 109°00′00″W; to lat. 36°51′00″N, long. 108°59′00″W; to lat. 37°04′00″N, long. 108°57′00″W; to lat. 37°16′00″N, long. 108°50′00″W; to lat. 37°30′00″N, long. 109°03′00″W; to lat. 37°47′00″N, long. 109°03′00″W; to lat. 37°52′00″N, long. 108°52′00″W; to lat. 38°02′00″N, long. 108°33′00″W; to lat. 38°00′00″N, long. 108°19′00″W; to lat. 37°16′00″N, long. 108°22′00″W; to lat. 37°02′00″N, long. 108°34′00″W; to lat. 36°49′00″N, long. 107°57′00″W; to lat. 36°36′00″N, long. 108°06′00″W; to lat. 36°52′00″N, long. 108°38′00″W; to lat. 36°31′00″N, long. 108°35′00″W; thence to point of beginning.

* * * * *

Issued in Seattle, Washington, on March 17, 1998.

Glenn A. Adams III,

Assistant Manager, Air Traffic Division, Nowthwest Mountain Region.

[FR Doc. 98–8267 Filed 3–27–98; 8:45 am]
BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Two-Part Documents for Commodity Pools

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed Rule amendments.

SUMMARY: The Commodity Futures Trading Commission ("Commission") has determined pursuant to Section 17(j) of the Commodity Exchange Act [1] ("Act") to review the National Futures Association's ("NFA's") Compliance Rule 2–35 ("the Rule") and its Interpretive Notice regarding commodity pool Disclosure Documents. The Rule requires the commodity pool operator ("CPO") of a commodity pool required to register its securities under the Securities Act of 1933 ("public pool") to deliver a two-part document to prospective participants. The first part of the document must be the Disclosure Document required by Commission Rule 4.21(a),[2] written using plain English principles and limited to specific disclosure information. The second part is a Statement of Additional Information ("SAI"), which may include information that is not in the Disclosure Document, provided that the information is not misleading or otherwise inconsistent with applicable statutes, rules or regulations.[3] The CPO of a commodity pool that is not required to register its securities under the Securities Act of 1933 ("private pool") [4] must prepare a Disclosure Document and may prepare and distribute an SAI, but is not required to do so. Should the Rule be approved by the Commission, it will be necessary to amend Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) to permit the use of the two-part document format. Accordingly, these amendments are contingent upon Commission approval of NFA Compliance Rule 2–35. The Commission, therefore, is providing the opportunity for comment prior to accepting NFA Compliance Rule 2–35 and implementing the related proposed amendments to Commission rules.

DATES: Comments must be received by April 29, 1998.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington, D.C. 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5221, or by electronic mail to secretary@cftc.gov. Reference should be made to "Two-Part Documents for Commodity Pools."

FOR FURTHER INFORMATION CONTACT: Leanna L. Morris, Staff Attorney, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W.,

[1] 7 U.S.C. 21(j) (1994).

[2] Commission rules referred to herein can be found at 17 CFR Ch. I (1997).

[3] Theoretically, the CPO of a public pool could prepare a Disclosure Document containing all of the required information and not need to prepare a separate SAI containing additional information. In that case, the CPO would not be required to deliver a two-part document, but would instead deliver only a Disclosure Document. However, most, if not all, public pools include more than the required information, such as trading comparison charts, additional text describing the market system, and the limited partnership agreement. Therefore, it is not expected that CPOs of public pools would prepare a Disclosure Document without also preparing an SAI.

[4] Pursuant to Commission Rule 4.24(d)(3)(i), a "private pool" is one that is privately offered pursuant to section 4(2) of the Securities Act of 1933, as amended, or pursuant to Regulation D thereunder.

Washington, D.C. 20581. Telephone: (202) 418–5434.

SUPPLEMENTARY INFORMATION :

I. Introduction

By letters dated December 24, 1997 and January 20, 1998, NFA submitted to the Commission for its approval, pursuant to Section 17(j) of the Act, NFA Compliance Rule 2–35 and its Interpretive Notice regarding commodity pool Disclosure Documents. NFA's submission indicated that it intends to implement the Rule on or after a date at least six months following receipt of notice of Commission approval. Should the Rule be approved by the Commission, it will be necessary to amend Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) to permit the use of the two-part document format. Commission Rule 4.24(v) would be amended to require that supplemental information be disclosed only in the second part of the two-part document. Commission Rule 4.25(a)(2) would be amended to allow monthly rate of return information of the offered pool to be provided in the second part of the two-part document. Commission Rule 4.25(c)(5) would be amended to allow such required information to be provided in the second part of the two-part document.

II. Description of NFA Compliance Rule 2–35

NFA's Interpretive Notice regarding commodity pool Disclosure Documents states that "[a] Disclosure Document should provide essential information about the fundamental characteristics of a pool, and it should provide the information in a way that will assist investors in making informed decisions about whether to invest in the pool." Accordingly, the Rule adopts a two-part document format and plain English principles, described below, for a more "understandable" document.

The Rule requires that the CPO of a public pool deliver a two-part document. The first part of the document must be the Disclosure Document required by Commission Rule 4.21(a), written using plain English principles[5] and limited to specific disclosure information, as discussed in detail below. The second part is a Statement of Additional Information ("SAI"), which may include information that is not in the Disclosure Document, provided that the information is not misleading or otherwise inconsistent with applicable statutes, rules or regulations.

The CPO of a private pool must prepare and distribute a Disclosure Document and may prepare and distribute an SAI, but is not required to do so. If the CPO of a private pool chooses to prepare an SAI, it may be bound together with the Disclosure Document, so long as the Disclosure Document comes first. If the CPO of a private pool binds the SAI separately, the CPO is not required to provide it to a prospective participant unless requested by the prospective participant.

The Rule requires that the Disclosure Document required by Commission Rule 4.21(a) be clear and concise, written using plain English principles, and be limited to the following: information required by Commission Rules 4.24 and 4.25, with some exceptions to the required performance disclosures discussed below; any other information necessary to understand the fundamental characteristics of the pool or to keep the Disclosure Document from being misleading; and any other information required by the Securities and Exchange Commission or state securities administrators to be included in Part 1 of a two-part document.

With respect to performance disclosures, the Rule states that a CPO may provide the monthly rate of return information required under Commission Rule 4.25(a)(1)(i)(H) and the performance information required under Commission Rule 4.25(c)(5) in the SAI. Although the CPO may include the monthly rate of return information in the SAI, the Disclosure Document must still include annual rate of return information for the pool for the most recent five calendar years and year-to-date. It should be noted that, if the CPO does not prepare an SAI, the monthly rate of return information required under Commission Rule 4.25(a)(1)(i)(H) and the performance information required under Commission Rule 4.25(c)(5) must be included in the Disclosure Document.

III. Commission Policy and Rules

In the Commission's Policy Statement of January 21, 1997, the Commission confirmed its support in principle of the use of two-part documents. As currently written, however, Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) do not permit the use of a two-part document format due to a specified order and placement of supplemental information and performance disclosures. Accordingly, if the Commission approves NFA Compliance Rule 2–35, it is necessary to amend Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5) to permit certain disclosures to be provided in the second part of a two-part document.

Commission Rule 4.24(v) provides that, if supplemental information, as defined by the regulation, is included in the Disclosure Document, the information must be disclosed in a specified order. Certain supplemental performance information must be placed after all specifically required performance information, while certain other supplemental performance information must be included in the Disclosure Document following all required and non-required disclosures. Supplemental non-performance information relating to a required disclosure may be included with the related required disclosure.

Commission Rule 4.25(a)(2) provides that, in addition to the required performance disclosures of Commission Rule 4.25(a)(1)(i)(H), the rate of return of the offered pool must be presented on a monthly basis for the period specified in Commission Rule 4.25(a)(5).

Commission Rule 4.25(c)(5) provides that, with respect to commodity trading advisors ("CTAs") and investee pools for which performance is not required to be disclosed pursuant to Commission Rules 4.25(c)(3) and 4.25(c)(4) (hereinafter "non-major CTAs and investee pools"),[6] the CPO must provide a summary description of the performance history of each of such advisors and pools.

Should the Commission approve NFA's Compliance Rule 2–35, the Commission believes that certain amendments to Commission Rules 4.24(v), 4.25(a)(2) and 4.25(c)(5), as discussed below, would permit the use of two-part documents by CPOs.

[5] NFA's Interpretive Notice to Rule 2–35 provides guidance on what is meant by the use of "plain English principles." Such principles include: using active voice; using short sentences and paragraphs; breaking up the document into short sections; using titles and sub-titles that specifically describe the contents of each section; using words that are definite, concrete, and part of everyday language; avoiding legal jargon and highly technical terms; using glossaries to define technical terms that cannot be avoided; avoiding multiple negatives; and using tables and bullet lists, where appropriate. (See NFA's Interpretive Notice to Rule 2–35). The Rule does not affect the prescribed statements of Commission Rules 4.24(a) and 4.24(b).

[6] Commission Rule 4.10(d)(5) defines "major investee pool" as any investee pool that is allocated or intended to be allocated at least ten percent of the net asset value of the pool. Commission Rule 4.10(i) defines "major commodity trading advisor" as, with respect to a pool, any CTA that is allocated or intended to be allocated at least ten percent of the pool's funds available for commodity interest trading. Accordingly, "non-major CTAs and investee pools" do not meet the ten percent allocation requirement.

IV. Discussion

The Commission believes that the adoption of a two-part document format and plain English principles will assist investors in making an informed decision prior to investing in a pool by providing clear and concise information about the possible investment. Material information would be provided in the first part of a two-part document and written in a manner that is easily digested by avoiding technical or legal terminology and excessive detail. Should the CPO desire to include more information about the pool, its program, or other non-misleading disclosures, it could be provided in the second part of a two-part document. Accordingly, the two-part format will keep the emphasis on the material, required information found in the Disclosure Document.

The amendments to the Commission rules proposed herein would support the use of a two-part document by permitting that certain required disclosures be provided in the second part of a two-part document. Specifically, Commission Rule 4.24(v) would be amended to provide that all supplemental information must be contained only in the second part of a two-part document.

Commission Rule 4.25(a)(2) would be amended to provide that the monthly rate of return performance of the offered pool may be provided in the second part of a two-part document.[7]

Commission Rule 4.25(c)(5) would be amended to provide that the required summary description of the performance history of non-major CTAs and investee pools, as defined above, may be provided in the second part of a two-part document.

As noted earlier, these amendments would not take effect unless the Commission approves NFA Compliance Rule 2–35. Accordingly, the Commission seeks comments on NFA Compliance Rule 2–35 and its Interpretive Notice regarding commodity pool Disclosure Documents and the related proposed Commission rule amendments for the purpose of permitting two-part documents for CPOs.

Copies of the Rule and its Interpretive Notice will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C., 20581. Copies also may be obtained through the Office of the Secretariat at the above address or by telephoning (202) 418–5100.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act ("RFA"), 5 U.S.C. 601–611, requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rule amendments discussed herein will affect registered CPOs. The Commission has previously established certain definitions of "small entities" to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[8] The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.[9] Therefore, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 [10] imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the Paperwork Reduction Act.

There is no burden associated with the proposed rule amendments to Commission Rules 4.24(v), 4.25(a)(2) or 4.25(c)(5). While these proposed rule amendments have no burden, the group of rules 3038–0005 of which these rules are a part has the following burden:

Average burden hours per response: 124.65.

Number of respondents: 4,624.

Frequency of response: On occasion.

Persons wishing to comment on the information which would be required by these proposed rules should contact the Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, D.C. 20503, (202) 395–7340. Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 4

Brokers, commodity futures, commodity pool operators and commodity trading advisors.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and in particular sections 2(a)(1), 4l, 4m, 4n, 4o, and 8a, 7 U.S.C. 2, 6l, 6m, 6n, 6o, and 12(a), the Commission hereby proposes to amend Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, 24.

2. Section 4.24(v) is amended by revising paragraph (v)(3) introductory text to read as follows:

§ 4.24 General disclosures required.

* * * * *

(v) * * *

(3) Must be placed as follows, unless otherwise specified by Commission rules, provided that where a two-part disclosure document is used pursuant to rules promulgated by a registered futures association pursuant to Section 17(j) of the Act, all supplemental information must be provided in the second part of the two-part document:

* * * * *

3. Section 4.25 is amended by revising paragraphs (a)(2)(i) and (c)(5) introductory text to read as follows:

§ 4.25 Performance disclosures.

(a) * * *

(2) * * * (i) The performance of the offered pool must be identified as such and separately presented first, provided that where the pool operator uses a two-part disclosure document pursuant to the rules promulgated by a registered futures association pursuant to section 17(j) of the Act, the rate of return of the offered pool on a monthly basis may be provided, in the format set forth in § 4.25(a)(2)(ii) and § 4.25(a)(2)(iii), in the second part of the two-part document;

* * * * *

(c) * * *

(5) With respect to commodity trading advisors and investee pools for which performance is not required to be disclosed pursuant to § 4.25(c)(3) and (4), the pool operator must provide a summary description of the performance history of each of such advisors and pools including the following information, provided that where the pool operator uses a two-part disclosure document pursuant to the rules promulgated by a registered futures association pursuant to section 17(j) of the Act, such summary

[7] Pursuant to NFA Compliance Rule 2–35, the annual rate of return performance information of the offered pool must be provided in the first part of a two-part Disclosure Document.

[8] 47 FR 18618–18621 (April 30, 1982).

[9] 47 FR 18619–18620.

[10] Pub. L. 104–13 (May 13, 1995).

description may be provided in the second part of the two-part document:

* * * * *

Dated: March 23, 1998.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–8147 Filed 3–27–98; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07–98–008]

RIN 2115–AE46

Special Local Regulations; Around Alone Sailboat Race, Charleston, SC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations creating a regulated area in the coastal waters off Charleston, SC, for the Around Alone single-handed sailboat race, sponsored by Great Adventures, Ltd. These regulations will prohibit entry into the regulated area by non-participating vessels during the event. These regulations are necessary to provide for the safety of life on navigable waters because of the expected presence of numerous spectator craft.

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

ADDRESSES: Comments may be mailed to Commander, U.S. Coast Guard Group Charleston, 196 Tradd Street, Charleston, SC 29401, or may be delivered to the Operations Office at the above address between 7:30 a.m. and 3:30 p.m. Monday through Friday, except federal holidays. The telephone number is (803) 724–7628. Comments will become part of this docket and will be available for inspection or copying at the Operations Office at the above address.

FOR FURTHER INFORMATION CONTACT: LTJG S.S. Brisco, Project Manager, Coast Guard Group Charleston at (803) 724–7628.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourage interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD07–98–008) and the specific section of this proposal to which each comment applies, and give a reason for each comment. Persons desiring acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Project Manager at the address under **ADDRESSES.** The request should include why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The proposed regulations are needed to provide for the safety of life during the start of the Around Alone 1998–99 sailing race. These proposed regulations are intended to promote safe navigation offshore of Charleston harbor immediately before, during, and after the start of the race by controlling the traffic entering, exiting, and traveling within the regulated area. The anticipated concentration of commercial traffic, spectator vessels, and participating vessels associated with the race poses a safety concern which is addressed in these proposed safety regulations.

The proposed regulations will encompass a trapezoidal area south of the Charleston Harbor entrance lighted buoy 7 (LLNR 2405). Four conspicuous markers will indicate the corners of the regulated area. These proposed regulations would prohibit the movement of spectator vessels and other non-participants within the regulated area on September 26, 1998, between 10 a.m. and 2 p.m. at the discretion of the Coast Guard Patrol Commander.

Regulatory Evaluation

This proposal is not a major 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The proposed regulations will only be in effect for approximately 4 hours on September 26, 1998.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard must consider whether this proposal will have a significant economic 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 field, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because the proposed regulated area would be in effect for only 4 hours in a limited area outside Charleston harbor. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal, and has determined pursuant to section 2.B.2.a (CD #34(h)) of Commandant Instruction M16475.1C, that this proposal is categorically excluded from further environmental documentation.

Lists of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A new section 100.35T–07–008 is added to read as follows:

§ 100.35T–07–008 Around Alone 1998–99 Sailing Race; Charleston, SC

(a) *Definitions.* (1) *Regulated area.* The regulated area includes the waters off Charleston, SC, in an area bounded by four corner points located at 32–42.72N, 79–47.64W; 32–42.09N, 79–46.96W; 32–41.61N, 79–47.28W; and 32–41.78N, 79–48.27W. All coordinates reference Datum: NAD 83. These four points will be conspicuously marked with four markers.

(2) *Coast Guard Patrol Commander.* The Coast Guard Patrol Commander is a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Group Charleston, SC.

(b) *Special local regulations.* (1) Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Coast Guard Patrol Commander.

(2) The Coast Guard Patrol Commander may delay, modify, or cancel the race as conditions or circumstances require. The Coast Guard Patrol Commander shall monitor the start of the race with the race committee, to allow for a window of opportunity for the race participants to depart the harbor with minimal interference with inbound or outbound commercial traffic.

(3) Spectator and other non-participating vessels may only follow the participants out of Charleston Harbor to the race starting area if they maintain a minimum distance of 500 yards behind the last participant, at the discretion of the Patrol Commander. Upon completion of the start of the race and when the last race participant has passed the outermost boundary of the regulated area, all vessels may resume normal operations.

(c) *Date.* This section becomes effective at 10 a.m. and terminates at 2 p.m. EDT on September 26, 1998.

Dated: March 16, 1998.

Norman T. Saunders,

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

[FR Doc. 98–8256 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH103–1b; FRL–5978–7]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: USEPA proposes to approve State Implementation Plan (SIP) revisions submitted by the State of Ohio on December 9, 1996, which provides for a Statewide sulfur dioxide exemption provision for sources burning natural gas and also changes the sulfur dioxide (SO_2) limits for the Sun Oil Company in Lucas County. The Sun Oil site specific revision revises emission limits to remove a restriction on the simultaneous operation of three heaters (B010, B008, and B006) at a Sun Oil Company facility. The statewide revision provides that sources burning natural gas are exempt from operating hour and rate restrictions that would otherwise apply for purposes of sulfur dioxide control, and USEPA also approves a previous revision to rule OAC 3745–18–06, entitled general emission limit provisions. This includes paragraph (F), relating to stationary gas turbines, and paragraph (G), relating to stationary internal combustion engines.

In the final rules section of this **Federal Register**, the EPA is approving the State's requests as a direct final rule without prior proposal because EPA views this action as noncontroversial and anticipates no adverse comments. A detailed rationale for approving the State's request is set forth in the direct final rule. The direct final rule will become effective without further notice unless the Agency receives relevant adverse written comment on this notice of proposed rulemaking. Should the Agency receive such comment, it will publish a final rule informing the public that the direct final rule did not take effect and such public comment received will be addressed in subsequent final rule based on this proposed rule. If no adverse written comments are received, the direct final rule will take effect on the date stated in that document and no further activity will be taken on this proposed rule. USEPA does not plan to institute a second comment period on this action. 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 April 29, 1998.

ADDRESSES: Written comments may be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5 at the address listed below.

Copies of the materials submitted by the Ohio Environmental Protection Agency may be examined during normal business hours at the following location: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

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

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: February 23, 1998.

Michelle D. Jordan,

Acting Regional Administrator, Region V.

[FR Doc. 98–7758 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CA 207–0068a; FRL–5987–4]

Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; San Joaquin Valley Unified Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which concerns Rule 4401 from the San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD). This rule controls volatile organic compound (VOC) emissions from steam-enhanced crude oil production well vents. The intended effect of proposing approval of this rule is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). EPA's final action on this proposed rule will incorporate this rule into the Federally-approved SIP. In addition, the

final action on this rule will serve as a final determination that the deficiencies in this rule have been corrected and that on the effective date of the final action, any sanction or Federal implementation plan (FIP) clock will be stopped. Thus, EPA is proposing approval of this rule into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards and plan requirements for nonattainment areas.

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

ADDRESSES: Comments may be mailed to Andrew Steckel, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Copies of the rule and EPA's evaluation report are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

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

San Joaquin Valley Unified Air Pollution Control District, 1999 Tuolumne Street, Suite 200, Fresno, CA 93721.

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

SUPPLEMENTARY INFORMATION:

I. Applicability

This document concerns SJVUAPCD Rule 4401, Steam-enhanced Crude Oil Production Well Vents, adopted by SJVUAPCD on January 15, 1998. This rule was submitted by the California Air Resources Board (CARB) to EPA on March 10, 1998.

II. Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the San Joaquin Valley Area which encompassed the following eight air pollution control districts (APCDs): Fresno County APCD, Kern County APCD,[1] Kings County APCD, Madera County APCD, Merced County APCD, San Joaquin County APCD, Stanislaus County APCD, and Tulare County APCD. See 43 FR 8964, 40 CFR 81.305. Because some of these areas were unable to meet the statutory attainment date of December 31, 1982, California requested under section 172(a)(2), and EPA approved, an extension of the attainment date to December 31, 1987.[2] See 40 CFR 52.222. On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2)(H) of the 1977 Act, that the above districts' portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for States to submit corrections of those deficiencies.

The SJVUAPCD was formed on March 20, 1991. The SJVUAPCD has authority over the San Joaquin Valley Air Basin which includes all of the above eight counties except for the Southeast Desert Air Basin portion of Kern County, which remains under the jurisdiction of the Kern County Air Pollution Control District.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the amendments and classified as marginal or worse as of the date of enactment.

It requires such areas to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in pre-amendment guidance.[3] EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. At the time of enactment of the CAA amendments, the San Joaquin Valley Area was classified as serious;[4] therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline.

This document addresses EPA's proposed action for SJVUAPCD Rule 4401, Steam-enhanced Crude Oil Production Well Vents. The SJVUAPCD adopted this rule on January 15, 1998, and this rule was submitted by CARB to EPA on March 10, 1998. The submitted rule was found to be complete on March 18, 1998, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, Appendix V[5] and is being proposed for approval into the SIP.

Rule 4401 controls VOC emissions from steam-enhanced crude oil production well vents. VOCs contribute to the production of ground level ozone and smog. This rule was originally adopted as part of SJVUAPCD's effort to achieve the National Ambient Air Quality Standard for ozone and in response to EPA's SIP-Call and the section 182(a)(2)(A) CAA requirement. The following is EPA's evaluation and proposed action for this rule.

III. EPA Evaluation

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the

[1] At that time, Kern Country included portions of two air basins: the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin portion of Kern County was designated as nonattainment, and the Southeast Desert Air Basin portion of Kern County was designated as unclassified. See 40 CFR 81.305 (1991).

[2] This extension was not requested for the following counties: Kern, King, Madera, Merced, and Tulare. Thus, the attainment date for these counties remained December 31, 1982.

[3] Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 **Federal Register** notice" (Blue Book) (notice of availability was published in the **Federal Register** on May 25, 1988); and the existing control technique guidelines (CTGs).

[4] The San Joaquin Valley Area retained its designation of nonattainment and was classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. See 55 FR 56694 (November 6, 1991).

[5] EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). For some source categories, such as steam-enhanced crude oil production well vents, EPA did not publish a CTG. Therefore, there is no CTG applicable to Rule 4401. In such cases, the District makes a determination of what controls are required to satisfy the RACT requirement, by reviewing the operations of facilities within the affected source category. In that review, the technological and economic feasibility of the proposed controls are considered. Additionally, the District may rely on EPA policy documents or technical guidance to ensure that the adopted VOC rules are fully enforceable and strengthen or maintain the SIP.

SJVUAPCD's submitted Rule 4401 includes the following significant changes from the current SIP:

1. Language in several provisions has been amended to clarify the intent of the rule.
2. Provisions related to implementation of best available control technology (BACT) and offsets have been amended to be consistent with Federal requirements.
3. Additional recordkeeping requirements have been added to determine compliance with the rule.

EPA has evaluated the submitted rule and has determined that it is consistent with the CAA, EPA regulations, and EPA policy. Therefore, SJVUAPCD Rule 4401 is being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D. Based on this proposed full approval, EPA is also making an interim final determination that the State has corrected the deficiencies for which a sanctions clock began on September 27, 1996. See 61 FR 44161, August 28, 1996. Elsewhere in today's **Federal Register**, EPA has published a document that defers the imposition of sanctions until EPA's final action approving SJVUAPCD Rule 4401 becomes effective or until EPA takes action proposing or finally disapproving in whole or part the State submittal. If EPA takes final action fully approving SJVUAPCD Rule 4401, any sanctions clocks will be permanently stopped and any imposed, stayed or deferred sanctions will be permanently lifted upon the effective date of that final action.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

IV. Regulatory Process

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. section 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. sections 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIAP approvals under sections 100 and 301(a) and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA.*, 427 U.S. 246, 256–66 (S. Ct. 1976); 42 U.S.C. 7410(a)(2).

B. Unfunded Mandates Reform Act

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

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rule being proposed for approval by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments, or to the private sector result from this action. EPA has also determined that this proposed action does not include a mandate that may result in estimated costs of $100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

C. Executive Order 12866

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

List of Subjects in 40 CFR Part 52:

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

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

Dated: March 20, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[DC036–2007; FRL–5988–6]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Enhanced Motor Vehicle Inspection and Maintenance Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed conditional approval and withdrawal of proposed disapproval action.

SUMMARY: EPA is proposing to conditionally approve a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District) on November 27, 1997. This revision establishes and requires the implementation of an enhanced motor vehicle inspection and maintenance (I/M) program within the District. The intended effect of this action is to propose conditional approval of the District's enhanced

motor vehicle I/M program. EPA is proposing approval conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its enhanced I/M SIP revision. EPA is also withdrawing its October 10, 1996 (61 FR 53166) proposed disapproval action of the enhanced I/M SIP revision submitted by the District of Columbia on July 13, 1995 (supplemented March 27, 1996).

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

ADDRESSES: Comments may be mailed to David L. Arnold, Chief, Ozone/CO & Mobile Sources Section, Mailcode 3AT21, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti @ 215–566–2174, at the EPA Region III address above, or via e-mail at magliocchetti.catherine @epamail.epa.gov. While information may be requested via e-mail, comments must be submitted in writing to the Region III office.

SUPPLEMENTARY INFORMATION:

I. Introduction

Motor vehicles are significant contributors of volatile organic compounds (VOC), carbon monoxide (CO) and nitrogen oxide (NO_X) emissions. An important control measure to reduce these emissions is the implementation of a motor vehicle inspection and maintenance (I/M) program. Despite being subject to the most rigorous vehicle pollution control program in the world, cars and trucks still create about half of the ozone air pollution and nearly all of the carbon monoxide air pollution in United States cities, as well as toxic contaminants. Of all highway vehicles, passenger cars and light-duty trucks emit most of the vehicle-related carbon monoxide and ozone-forming hydrocarbons. They also emit substantial amounts of nitrogen oxides and air toxics. Although the U.S. has made progress in reducing emissions of these pollutants, total fleet emissions remain high. This is because the number of vehicle miles traveled on U.S. roads has doubled in the last 20 years to 2 trillion miles per year, offsetting much of the technological progress in vehicle emission control over the same two decades. Projections indicate that the steady growth in vehicle travel will continue. Ongoing efforts to reduce emissions from individual vehicles will be necessary to achieve our air quality goals.

Today's cars are absolutely dependent on properly functioning emission controls to keep pollution levels low. Minor malfunctions in the emission control system can increase emissions significantly, and the average car on the road emits three to four times the new car standard. Major malfunctions in the emission control system can cause emissions to skyrocket. As a result, 10 to 30 percent of cars are causing the majority of the vehicle-related pollution problem. Unfortunately, it is rarely obvious which cars fall into this category, as the emissions themselves may not be noticeable and emission control malfunctions do not necessarily affect vehicle driveability.

Effective I/M programs, however, can identify these problem cars and assure their repair. I/M programs ensure that cars are properly maintained during customer use. I/M produces emission reduction results soon after the program is put in place.

The Clean Air Act as amended in 1990 (the Act) requires that most polluted cities adopt either "basic" or "enhanced" I/M programs, depending on the severity of the problem and the population of the area. The moderate ozone nonattainment areas, plus marginal ozone areas with existing or previously required I/M programs, fall under the "basic" I/M requirements. Enhanced programs are required in serious, severe, and extreme ozone nonattainment areas with urbanized populations of 200,000 or more; CO areas that exceed a 12.7 parts per million (ppm) design value [1] with urbanized populations of 200,000 or more; and all metropolitan statistical areas with a population of 100,000 or more in the Northeast Ozone Transport Region.

"Basic" and "enhanced" I/M programs both achieve their objectives by identifying vehicles that have high emissions as a result of one or more malfunctions, and requiring them to be repaired. An "enhanced" program covers more of the vehicles in operation, employs inspection methods that are better at finding high emitting vehicles, and has additional features to better assure that all vehicles are tested properly and effectively repaired.

The Act requires states to make changes to improve existing I/M programs or to implement new ones for certain nonattainment areas. Section 182(a)(2)(B) of the Act directed EPA to publish updated guidance for state I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The Act further requires each area required to have an I/M program to incorporate this guidance into the SIP. Based on these requirements, EPA promulgated I/M regulations on November 5, 1992 (57 FR 52950, codified at 40 Code of Federal Regulations (CFR) 51.350–51.373), herein referred to as the I/M Rule. Flexibility amendments to this rule, which provided for a low enhanced I/M performance standard for use in certain qualifying areas were published on September 18, 1995 (60 FR 48029) and additional I/M flexibility amendments for qualified areas in the OTR were published on July 25, 1996 (61 FR 39031).

Under sections 182(c)(3), 187(a)(6) and 187(b)(1) of the Act, and 40 CFR 51.350(a), any area having a 1980 Bureau of Census-defined urbanized area population of 200,000 or more and that is either: (1) designated as serious or worse ozone nonattainment or (2) moderate or serious CO nonattainment areas with a design value greater than 12.7 ppm, shall implement enhanced I/M in the 1990 Census-defined urbanized area. The Act also established the ozone transport region (OTR) in the northeastern United States comprised of 11 states and the District. Section 184(b)(1)(A) of the Act require the implementation of enhanced I/M programs in all metropolitan statistical areas (MSAs) located in the OTR that have a population of 100,000 or more people.

The November 1992 I/M Rule establishes minimum performance standards for basic and enhanced I/M programs as well as requirements for the following: network type and program evaluation; adequate tools and resources; test frequency and convenience; vehicle coverage; test procedures and standards; test equipment; quality control; waivers and compliance via diagnostic inspection; motorist compliance enforcement; motorist compliance enforcement program oversight; quality assurance; enforcement against contractors, stations and inspectors; data collection; data analysis and reporting; inspector training and licensing or certification;

[1] The air quality design value is estimated using EPA guidance. Generally, the fourth highest monitored value with 3 complete years of data is selected as the ozone design value because the standard allows one exceedance for each year. The highest of the second high monitored values with 2 complete years of data is selected as the carbon monoxide design value.

public information and consumer protection; improving repair effectiveness; compliance with recall notices; on-road testing; SIP revisions; and implementation deadlines. The performance standard for enhanced I/M programs is based on a high-technology transient test, known as IM240, for new technology vehicles (i.e, those with closed-loop control and, especially, fuel injected engines), including a transient loaded exhaust short test incorporating hydrocarbons (HC), CO and NO_X cutpoints, an evaporative system integrity (pressure) test and an evaporative system performance (purge) test.

Under the November 1992 I/M Rule enhanced I/M programs were required to initially begin phased-in implementation by January 1, 1995, with final full implementation slated for January 1, 1996. Due to EPA rule changes, and the flexibility afforded by the National Highway Systems Designation Act of 1995 (NHA) EPA believes states should be afforded extra time to begin full implementation of their enhanced I/M programs. Since the 1995 deadline has now passed, EPA believes that state I/M programs must now start up as soon as practicable.

II. Background

The District of Columbia is part of the OTR and is part of the Washington DC, MSA with a population of 100,000 or more. Section 184(b)(1)(A) of the Act require all states in the OTR region which contain MSAs or parts thereof with populations of 100,000 or more, to submit a SIP revision for an enhanced I/M program.

On July 13, 1995 the District of Columbia Department of Consumer and Regulatory Affairs, now known as the Department of Health (DoH), submitted to EPA a SIP revision for an enhanced I/M program. On March 27, 1996, DoH submitted a supplement to this SIP revision, in response to changes to the federal program requirements resulting from new federal legislation governing enhanced I/M programs, and EPA rule changes to the program. EPA's evaluation of this SIP revision submittal (including its supplement) concluded that it did not meet the requirements of the Clean Air Act, and subsequently EPA proposed disapproval of the SIP revision on October 10, 1996 (61 FR 53166). The rationale for EPA's disapproval can be found in the notice of proposed rulemaking, and will not be restated here. In response to EPA's proposed disapproval of the District's plan, DoH completely redesigned the District's enhanced I/M program. On November 25, 1997, DoH submitted to EPA another enhanced I/M SIP revision which replaced, completely, its earlier enhanced I/M submittal, and simultaneously requested that EPA withdrawal the October 1996 proposed disapproval. In preparing the latest SIP revision, DoH has attempted to address all of the programmatic deficiencies identified in the October 1996 proposed disapproval of the previously submitted SIP revision.

EPA's summary of the requirements of the federal I/M rule as found in 40 CFR 51.350–51.373 and EPA's analysis of the District's November 25, 1997 submittal is outlined below. A more detailed analysis of the District's submittal is contained in a Technical Support Document (TSD) dated March 10, 1998. For interested parties, the TSD is available upon request from the Region III office, listed in the **ADDRESSES** section above. Parties desiring additional details on the I/M rule are referred to the November 5, 1992 **Federal Register** notice (57 FR 52950) or 40 CFR 51.350–51.373, as well as the I/M Flexibility Amendments in the September 18, 1995 **Federal Register** notice (60 FR 48029) and the additional I/M flexibility amendments for qualified areas in the OTR, published on July 25, 1996 at (61 FR 39031).

III. EPA's Analysis of the District of Columbia's Enhanced I/M Program

As discussed above, sections 182(c)(3), 184(b)(1)(A), 187(a)(6) and 187(b)(1) of the Act require that states adopt and implement regulations for enhanced I/M programs in certain areas. Based upon EPA's review of the District's submittal, EPA believes the District has complied with all aspects of the Act and the I/M rule. EPA is proposing approval, conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its enhanced I/M SIP revision. EPA is imposing this condition because while it agrees that the District's start date of April 30, 1999 is as expeditious as practicable given current circumstances, EPA also believes that it is imperative that this date be met with no further delay beyond the originally mandated federal date for start-up of enhanced I/M programs. Because the originally mandated start date has now passed, EPA proposes to condition approval of the District's I/M program on start-up as soon as practicable. In light of the current status of the District program, EPA concludes that April 30, 1999 is as soon as practicable to start the program in the District. EPA has reviewed the November 25, 1997 SIP revision, and has determined that the enhanced I/M program detailed in the SIP revision meets all of the other requirements of the CAA.

A. Applicability—40 CFR 51.350

Section 184(b)(1)(A) of the Act and 40 CFR 51.350(a) require all states in the OTR which contain MSAs or parts thereof with populations of 100,000 or more to implement an enhanced I/M program. The District of Columbia is part of the OTR and is a part of the Washington, DC, MSA, which has a population in excess of 100,000. DC's enhanced I/M program will be implemented throughout the District.

The District's I/M legislative authority (Title 40, Chapter 2) provides the legal authority to establish the geographic boundaries of the program. The program boundaries listed in Section 1 of the SIP revision are the inclusive zipcode listings for the entire District, and thus meet the federal I/M requirements under § 51.350.

The I/M rule requires that the state program shall not sunset until it is no longer necessary. EPA interprets the I/M rule as stating that a SIP which does not sunset prior to the attainment deadline for each applicable area satisfies this requirement. DoH has previously informed EPA, through its November 13, 1996 comment letter on the October 1996 proposed disapproval, that the legislation governing the District's I/M program will not sunset unless it is actively repealed or amended by the City Council. DoH therefore believes that the program is authorized up to and beyond the attainment date. EPA agrees with this assessment, since there is no sunset date provision attached to the enabling legislation. Therefore, EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.350 of the I/M rule.

B. Enhanced I/M Performance Standard—40 CFR 51.351

In accordance with the Act and with the I/M rule, the enhanced I/M program must be designed and implemented to meet or exceed a minimum performance standard, which is expressed as emission levels in area-wide average grams per mile (gpm) for certain pollutants. The performance standard shall be established using local characteristics, such as vehicle mix and local fuel controls, and the following model I/M program parameters: network type, start date, test frequency, model year coverage, vehicle type coverage, exhaust emission test type, emission standards, emission control device, evaporative system function checks, stringency, waiver rate, compliance rate and evaluation date. The emission

levels achieved by the State's program design shall be calculated using the most current version, at the time of submittal, of the EPA mobile source emission factor model. Areas shall meet the performance standard for the pollutants which cause them to be subject to enhanced I/M requirements. In the case of ozone nonattainment areas such as the District, the performance standard must be met for both NO_x and HC.

The District's submittal includes the following program design parameters:

Network Type—Centralized, test-only.

Start Date—April 1999.

Test Frequency—Biennial.

Model Year/Vehicle Type Coverage—All 1974 and newer light duty gasoline vehicles (LDGV); light duty gasoline trucks 1 & 2 (LDGT1, LDGT2); and heavy duty gasoline vehicles up to 26,000 lbs gross vehicle weight.

Exhaust Emission Test Type—Transient test for 1984 and newer model year vehicles idle test for1983 and older model year vehicles.

Emission Standards—Permanent transient test standards for 1984 and newer model year light duty vehicles: 0.8 gpm HC, 15 gpm CO, 2.0 gpm NO_x. [Please refer to the District's I/M regulations (18 DCMR 752) for transient test standards for other applicable model years]

Emission Control Device—Pressure and purge check on all 1984 and newer model year vehicles.

Stringency (pre-1981 failure rate)—40%.

Waiver Rate—3% on pre- and post-1981 vehicles.

Compliance Rate—96%.

Evaluation Date—For HC and NO_x: July 1, 2002.

EPA has reviewed the District's modeling of the program and has determined that the design parameters are acceptable; and that the model performance standard has been met. EPA notes that an appropriate methodology was used by the District in accounting for a start-date month of April, which cannot be directly entered into the MOBILE model. For further information on the modeling approach, please consult the TSD. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.351 of the I/M rule.

C. Network Type and Program Evaluation—40 CFR 51.353

The enhanced program must include an ongoing evaluation to quantify the emission reduction benefits of the program, and to determine if the program is meeting the requirements of the Act and the I/M rule. The SIP shall include details on the program evaluation and shall include a schedule for submittal of biennial evaluation reports.

In response to the changing format of many enhanced I/M programs (resulting from increased flexibility under the I/M Flexibility Rule and the National Highway Systems Designation Act of 1995) EPA has committed to re-examining the requirements of this section of the I/M rule (see 63 FR 1362, January 9, 1998). EPA here notes that, as indicated in that rulemaking, whatever the outcome of this examination of alternative program evaluation methods, the original evaluation method will also be available to programs such as the District's that have opted for a centralized approach using IM240 equipment.

The original approach calls for the SIP to include the collection of data from a state monitored or administered mass emission test of at least 0.1% of the vehicles subject to inspection each year, a description of the sampling methodology, a description of the data collection and analysis system and the legal authority enabling the evaluation program.

In addition to these requirements, the state should also provide, in the biennial report, the results of undercover surveys of inspector effectiveness related to identifying vehicles in need of repair. Also, the State should, in its biennial reports, provide local fleet emission factors in assessing the actual effectiveness of the I/M program.

The District's submittal includes an ongoing program evaluation that meets the original I/M rule requirements. The District has the legal authority to conduct this testing under Title 40, Chapter 2. Therefore, EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.353(d) of the I/M rule.

D. Adequate Tools and Resources—40 CFR 51.354

The federal regulation requires the state to demonstrate that adequate funding of the program is available. A portion of the test fee or separately assessed per vehicle fee shall be collected, placed in a dedicated fund and used to finance the program. Alternative funding approaches are acceptable if it can be demonstrated that the funding can be maintained. Reliance on funding from the state or local General Fund is not acceptable unless doing otherwise would be a violation of the state's constitution. The SIP shall include a detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, and purchase of equipment. The SIP shall also detail the number of personnel dedicated to the quality assurance program, data analysis, program administration, enforcement, public education and assistance and other necessary functions.

The November 25, 1997 SIP revision documents that sufficient funds, equipment and personnel for the I/M program are available. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.354(d) of the I/M rule.

E. Test Frequency and Convenience—40 CFR 51.355

The enhanced I/M performance standard assumes an annual test frequency, however, other schedules may be approved if the performance standard is achieved. The SIP shall describe the test year selection scheme, how the test frequency is integrated into the enforcement process and shall include the legal authority, regulations or contract provisions to implement and enforce the test frequency. The program shall be designed to provide convenient service to the motorist by ensuring short wait times, short driving distances and regular testing hours.

The District's statutory authority provides for a biennial test frequency, and meets the test frequency and convenience requirements of the I/M rule. Therefore, EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.355.

F. Vehicle Coverage—40 CFR 51.356

The performance standard for enhanced I/M programs assumes coverage of all 1968 and later model year light duty vehicles and light duty trucks up to 8,500 pounds GVWR, and includes vehicles operating on all fuel types. Other levels of coverage may be approved if the necessary emission reductions are achieved. Vehicles registered or required to be registered within the I/M program area boundaries and fleets primarily operated within the I/M program area boundaries and belonging to the covered model years and vehicle classes comprise the subject vehicles. Fleets may be officially inspected outside of the normal I/M program test facilities, if such alternatives are approved by the program administration, but shall be subject to the same test requirements using the same quality control standards as non-fleet vehicles and shall be inspected in independent, test-only facilities, according to the requirements

of 40 CFR 51.353(a). Vehicles which are operated on Federal installations located within an I/M program area shall be tested, regardless of whether the vehicles are registered in the State or local I/M area.

The I/M rule requires that the SIP shall include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement, a detailed description of the number and types of vehicles to be covered by the program and a plan for how those vehicles are to be identified including vehicles that are routinely operated in the area but may not be registered in the area, and a description of any special exemptions including the percentage and number of vehicles to be impacted by the exemption.

The District's enhanced I/M program requires coverage of all 1974 and newer LDGV, LDGT1 and LDGT2, and HDGV up to 26,000 pounds GVWR (gross vehicle weight rating), which are registered or required to be registered in the I/M program area. District regulations allow for the inspection of any vehicle that is operating in the public space of the District.

As of the date of the SIP submittal, approximately 236,600 vehicles (118,300 vehicles annually) will be subject to enhanced I/M testing. Title 40, Chapter 2 and the District's I/M regulations provide the legal authority to implement and enforce the vehicle coverage requirement. The District's program provides for fleet self-testing, using the same testing requirements and the same quality control standards as the centralized component. The District's plan for testing fleet vehicles is acceptable and meets the requirements of the I/M rule. The District's regulation provides for special exemptions for antique vehicles (i.e., vehicles more than 25 years old) and vehicles that are 2 years old and newer. These are acceptable exemptions and have been appropriately accounted for in the District's modeling demonstration.

EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.356(b) of the I/M rule.

G. Test Procedures and Standards—40 CFR 51.357

Written test procedures and pass/fail standards shall be established and followed for each model year and vehicle type included in the program. Test procedures and standards are detailed in 40 CFR 51.357 and in the EPA document entitled "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications", EPA–AA–EPSD–IM–93–1, dated April 1994. The I/M rule also requires vehicles that have been altered from their original certified configuration (i.e. engine or fuel switching) to be tested in the same manner as other subject vehicles.

The District's regulations provide test procedures for transient emission and evaporative system purge and pressure testing in accordance with the requirements of the I/M rule. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.357(e) of the I/M rule.

H. Test Equipment—40 CFR 51.358

Computerized test systems are required for performing any measurement on subject vehicles. The I/M rule requires that the State SIP submittal include written technical specifications for all test equipment used in the program. The specifications shall describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The District's submittal contains the written technical specifications for all test equipment to be used in the program. The specifications require the use of computerized test systems. The specifications also include performance features and functional characteristics of the computerized test systems which meet the I/M rule and are approvable. Therefore, EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.358(c) of the I/M rule.

I. Quality Control—40 CFR 51.359

Quality control measures shall insure that emission measurement equipment is calibrated and maintained properly, and that inspection, calibration records, and control charts are accurately created, recorded and maintained.

The District's submittal contains the appropriate regulations and technical manuals that describe and establish quality control measures for the emission measurement equipment, record keeping requirements and measures to maintain the security of all documents used to establish compliance with the inspection requirements. Therefore, EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.359(f) of the I/M rule.

J. Waivers and Compliance Via Diagnostic Inspection—40 CFR 51.360

The I/M rule allows for the issuance of a waiver, which is a form of compliance with the program requirements that allows a motorist to comply without meeting the applicable test standards. For enhanced I/M programs, an expenditure of at least $450 in repairs, adjusted annually to reflect the change in the Consumer Price Index (CPI) as compared to the CPI for 1989, is required in order to qualify for a waiver. Waivers can only be issued after a vehicle has failed a retest performed after all qualifying repairs have been made. Any available warranty coverage must be used to obtain repairs before expenditures can be counted toward the cost limit. Tampering related repairs shall not be applied toward the cost limit. Repairs must be appropriate to the cause of the test failure. The federal regulation allows for compliance via a diagnostic inspection after failing a retest on emissions and requires quality control of waiver issuance. The SIP must set a maximum waiver rate and must describe corrective action that would be taken if the waiver rate exceeds that committed to in the SIP.

The District's regulations and statutory authority provide the necessary authority to issue waivers, set and adjust cost limits, administer and enforce the waiver system, and set a $450 cost limit and allow for an annual adjustment of the cost limit to reflect the change in the CPI as compared to the CPI in 1989. The SIP revision includes provisions that address waiver criteria and procedures, including cost limits, tampering and warranty related repairs, quality control and administration. These provisions meet the I/M rule requirements and are approvable. The District has set a maximum waiver rate of 3% for both pre-1981 and 1981 and later vehicles. EPA has interpreted a section of the District's SIP revision to say that the District will take corrective action if the waiver rate exceeds 3%. The interpretation was needed to address what appears to be a typographical error in the District's submittal. The District used a 3% waiver rate in its performance standard modeling. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.360(d) of the I/M rule.

K. Motorist Compliance Enforcement—40 CFR 51.361

The federal regulation requires that compliance shall be ensured through the denial of motor vehicle registration in enhanced I/M programs unless an exception for use of an existing alternative is approved. The SIP shall provide information concerning the enforcement process, legal authority to implement and enforce the program, and a commitment to a compliance rate

to be used for modeling purposes and to be maintained in practice.

Title 40, Chapter 2 provides the legal authority to implement a registration denial system. The District's program will use registration denial to enforce the program, if the vehicle is not in compliance with the inspection requirement. The District's regulations call for ticketing of any vehicle found with an expired registration sticker. In the District's submittal, DoH states that the fine for an expired registration is $300. EPA believes this penalty schedule constitutes a "meaningful" fine for noncompliance with the inspection program. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.361(c) of the I/M rule.

L. Motorist Compliance Enforcement Program Oversight—40 CFR 51.362

The I/M rule requires that the enforcement program shall be audited regularly and shall follow effective program management practices, including adjustments to improve operation when necessary. The SIP shall include quality control and quality assurance procedures to be used to insure the effective overall performance of the enforcement system. An information management system shall be established that will characterize, evaluate and enforce the program.

The District's program includes a strategy for effective auditing of the I/M program. The program's QA/QC procedures are outlined in the SIP revision, as is the program's information management system. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.362(c) of the I/M rule.

M. Quality Assurance—40 CFR 51.363

An ongoing quality assurance program shall be implemented to discover, correct and prevent fraud, waste, and abuse in the program. The program shall include covert and overt performance audits of the inspectors, audits of station and inspector records, equipment audits, and formal training of all State I/M enforcement officials and auditors. A description of the quality assurance program that includes written procedure manuals on the above discussed items must be submitted as part of the SIP.

The District's submittal contains procedures for conducting overt and covert audits. These audit results will be recorded and retained in station and inspector files. Performance audits of inspectors will consist of both covert and overt audits. The District will provide an adequate number of covert vehicles for the purposes of conducting audits, so as to avoid detection by the inspectors during audit procedures. Formal training is required for all program auditors and enforcement officials. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.363(e) of the I/M rule.

N. Enforcement Against Contractors, Stations and Inspectors—40 CFR 51.364

Enforcement against licensed stations, contractors and inspectors shall include swift, sure, effective, and consistent penalties for violation of program requirements. The I/M Rule requires the establishment of minimum penalties for violations of program rules and procedures which can be imposed against stations, contractors and inspectors. The legal authority for establishing and imposing penalties, civil fines, license suspensions and revocations must be included in the SIP. State quality assurance officials shall have the authority to temporarily suspend station and/or inspector licenses immediately upon finding a violation that directly affects emission reduction benefits, unless constitutionally prohibited. An official opinion explaining any state constitutional impediments to immediate suspension authority must be included in the submittal. The SIP shall describe the administrative and judicial procedures and responsibilities relevant to the enforcement process, including which agencies, courts and jurisdictions are involved, who will prosecute and adjudicate cases and the resources and sources of those resources which will support this function.

The District has provided evidence of authority and sufficient resources to impose penalties and a penalty schedule for enforcement against the District's inspectors. Since the program will be "state-operated", other penalty schedules (e.g. contractor penalty schedules) are not required under this section. EPA notes that the penalty schedule provided by the District does differ from the federal requirements in terms of the types and severity of individual penalties that will be levied against inspectors for fraud, incompetency, or other misconduct. However, EPA has reviewed the District's penalty schedule and has determined that overall, it will adequately serve the intent of § 51.364(d)(1) of the I/M rule and be equivalent to the minimum penalties specified in the I/M Rule.

EPA has therefore determined that the District of Columbia has satisfied all of the requirements of § 51.364(d) of the I/M rule.

O. Data Collection—40 CFR 51.365

Accurate data collection is essential to the management, evaluation and enforcement of an I/M program. The I/M Rule requires data to be gathered on each individual test conducted and on the results of the quality control checks of test equipment required under 40 CFR 51.359. The District's regulation and RFP require the collection of data on each individual test conducted as well as quality control checks, and describe the type of data to be collected. The type of test data collected meets the I/M Rule requirements and is approvable.

EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.365 of the I/M rule.

P. Data Analysis and Reporting—40 CFR 51.366

Data analysis and reporting are required to allow for monitoring and evaluation of the program by the state and EPA. The I/M Rule requires annual reports to be submitted that provide information and statistics and summarize activities performed for each of the following programs: testing, quality assurance, quality control and enforcement. These reports are to be submitted by July of each year, and shall provide statistics for the period of January to December of the previous year. A biennial report shall also be submitted to EPA which addresses changes in program design, regulations, legal authority, program procedures and any weaknesses in the program found during the two year period and how these problems will be or were corrected.

The District SIP revision provides for the analysis and reporting of data for the testing program, quality assurance program, quality control program and the enforcement program. The type of data to be collected and analyzed and reported on meets the I/M rule requirements and is approvable. The District commits to submit annual reports on these programs to EPA by July of the subsequent reporting year. A commitment to submit a biennial report to EPA which addresses reporting requirements set forth in 40 CFR 51.366(e) is also included in the SIP. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.366(f) of the I/M rule.

Q. Inspector Training and Licensing or Certification—40 CFR 51.367

The I/M rule requires all inspectors to be formally trained and licensed or certified to perform inspections.

The District's regulations requires all inspectors to receive formal training, and be certified by the DC Department of Public Works. The District's regulations and the SIP revision include a description of and the information covered in the training program, a description of the required written and hands-on tests, and a description of the certification process. Recertification of inspectors is required every two years. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.367(c) of the I/M rule.

R. Public Information and Consumer Protection—40 CFR 51.368

The I/M rule requires the SIP to include public information and consumer protection programs. The DC program includes both of these features. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.368 of the I/M rule.

S. Improving Repair Effectiveness—40 CFR 51.369

Effective repairs are the key to achieving program goals. The I/M rule requires states to take steps to ensure that the capability exists in the repair industry to repair vehicles. The SIP must include a description of the technical assistance program to be implemented, a description of the procedures and criteria to be used in meeting the performance monitoring requirements required in the I/M rule, and a description of the repair technician training resources available in the community.

The District's SIP revision requires the implementation of a technical assistance program, which includes a hot line service to assist repair technicians and a method of regularly informing the repair facilities of changes in the program, training courses, and common repair problems. A repair facility performance monitoring program is also included in the District's SIP revision. This monitoring will provide the motoring public a summary of local repair facilities' performances, and provide regular feedback to each facility on their repair performance and requires the submittal of a completed repair form at the time of retest. The District's regulation provides for the establishment and implementation of a repair technician training program which, at a minimum, covers the four types of training described in 40 CFR 51.369(c). EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.369(d) of the I/M rule.

T. Compliance with Recall Notices—40 CFR 51.370

The federal regulation requires the states to establish methods to ensure that vehicles that are subject to enhanced I/M and are included in a emission related recall receive the required repairs prior to completing the emission test and/or renewing the vehicle registration.

Under the District's regulation, owners are required to comply with emission related recalls before completing the emission test and renewing the vehicle registration. EPA notes that the District will readdress this requirement once EPA finalizes its policy and guidance on Recall Compliance. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.370(d) of the I/M rule.

U. On-road Testing—40 CFR 51.371

On-road testing is required in enhanced I/M areas. The use of either remote sensing devices (RSD) or roadside pullovers including tailpipe emission testing can be used to meet the federal regulations. The program must include on-road testing of 0.5% of the subject fleet or 20,000 vehicles, whichever is less, in the nonattainment area or the I/M program area. Motorists that have passed an emission test and are found to be high emitters as a result of an on-road test shall be required to pass an out-of-cycle test.

Legal authority to implement the on-road testing program and enforce off-cycle inspection and repair requirements is contained in Title 40, Chapter 2. The SIP submittal requires the use of RSD to test 0.5% of the fleet per year and will be implemented by a contractor. A description of the program, which includes resource allocations, and methods of collecting, analyzing and reporting the results of the testing are detailed in the submittal. EPA has determined that the District of Columbia has satisfied all of the requirements of § 51.371(b) of the I/M rule.

V. State Implementation Plan Submissions/Implementation Deadlines—40 CFR 51.372–52.373

The District's submittal included the final I/M regulations, legislative authority to implement the program, and a detailed discussion on each of the required program design elements. The start date for implementation of full-stringency cutpoints will be April 30, 1999.

The District has adequately completed a modeling demonstration showing that the program design meets the performance standard, and the District has provided evidence of adequate funding and resources to implement the program. EPA has determined that the District has satisfied the requirements of §§ 51.372(e) and 51.373.

EPA's review of the material indicates that the District has adopted an enhanced I/M program in accordance with the requirements of the Act. EPA is proposing to conditionally approve the District's SIP revision that was submitted on November 25, 1997. The only condition of this proposed rulemaking is that the District begin full implementation of the enhanced I/M program on or before April 30, 1999. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking procedure by submitting written comments to the EPA Regional office listed in the **ADDRESSES** section of this document.

IV. Proposed Action

EPA is proposing to conditionally approve the revision to the District of Columbia SIP submitted on November 27, 1997 for an enhanced I/M program. EPA's proposed approval is conditioned upon the District meeting the April 30, 1999 start date committed to and contained in its November 27, 1997 SIP revision submittal. EPA is also withdrawing its previously proposed disapproval action of an enhanced I/M SIP revision submitted by the District of Columbia on July 13, 1995 (supplemented March 27, 1996) because that action is no longer germane, given that the District's submittal of November 27, 1997 completely replaced those earlier submittals.

After full consideration of any comments received on this proposed conditional approval, EPA shall take final rulemaking action. In the event that final conditional approval is granted, the conversion from conditional approval to full approval or to disapproval will be dependent upon whether or not the District meets the start date of April 30, 1999 committed to in the SIP revision. If the District starts the enhanced testing program on or before April 30, 1999, then any final conditional approval shall convert to a full approval of the SIP revision. If the District fails to fully implement

enhanced I/M testing in the District by April 30, 1999, EPA would notify the District by letter that the condition has not been met and that any final conditional approval has converted to a disapproval, and the clock for imposition of sanctions under section 179(a) of the Act would start as of the date of the letter. Subsequently, a notice would be published in the **Federal Register** announcing that the SIP revision has been disapproved.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

V. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant 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.

Conditional approvals of SIP submittals under section 110 and a subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, EPA certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

If the proposed conditional approval is promulgated and subsequently is converted to a disapproval under section 110(k), based on the District's failure to meet the condition committed to in its submittal, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA 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 nor does it substitute a new federal requirement.

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under Section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the conditional approval action being proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action only proposes to approve pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Administrator's decision to approve or disapprove the District's enhanced I/M SIP revision will be based on whether it meets the requirements of the federal enhanced I/M regulations, section 110(a)(2)(A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Nitrogen dioxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 19, 1998.

W. Michael McCabe,

Regional Administrator, Region III.

[FR Doc. 98–8064 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5986–4]

40 CFR Part 300

National Oil and Hazardous Substances Poilution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the H & K Sales Superfund site from the national priorities list; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA) Region V announces its intent to delete the H & K Sales 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 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 EPA, because it has been determined that all Fund-financed responses under CERCLA have been implemented and EPA, in consultation with the State of Michigan, has determined that no further response is appropriate. Moreover, 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 April 29, 1998.

ADDRESSES: Comments may be mailed to Gladys Beard, Associate Remedial Project Manager, Superfund Division, U.S. EPA, Region V, 77 W. Jackson Blvd. (SR–6J), Chicago, IL 60604. Comprehensive information on the site is available at U.S. EPA's Region V office and at the local information repository located at: Alvah N. Belding Library, 302 East Main Street, Belding, Michigan 48809. Requests for comprehensive copies of documents should be directed formally to the Region V Docket Office. The address and phone number for the Regional

Docket Officer is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

FOR FURTHER INFORMATION CONTACT: Kevin Adler, Remedial Project Manager at (312) 886–7078 or Gladys Beard, Associate Remedial Project Manager, Superfund Division (SR–6J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–7253 or Denise Gawlinski (P–19J), Office of Public Affairs, U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 886–9859.

SUPPLEMENTARY INFORMATION:

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I. Introduction
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I. Introduction

The Environmental Protection Agency (EPA) Region V announces its intent to delete the H & K Sales 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 Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to section 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 EPA will accept comments on this proposal for thirty (30) days after publication of this document in the **Federal Register.**

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the history of this site and 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 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 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, 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 non-time Critical Removal Actions or 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 300.425(e) has been met, EPA may formally begin deletion procedures once the State has concurred. This **Federal Register** document, 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 EPA's intention to delete the Site from the NPL. All critical documents needed to evaluate EPA's decision are included in the information repository and the deletion docket.

Upon completion of the public comment period, if necessary, the EPA Regional Office will prepare a Responsiveness Summary to evaluate and address comments that were received. The public is welcome to contact the EPA Region V Office to obtain a copy of this responsiveness summary, if one is prepared. If EPA then determines the deletion from the NPL is appropriate, final notice of deletion will be published in the **Federal Register.**

IV. Basis for Intended Site Deletion

The H & K Sales site is located at 100 East Main Street in Belding, Michigan. The site is the portion of the Belding Warehouse facility in which World War II (WWII) era military-surplus aircraft components had been stored since 1994. Some of the aircraft components are marked with paint containing radium-226, which is a naturally occurring, but hazardous, radioactive material.

The Belding Warehouse facility is located on several acres of land in a commercial section of town. The property is bounded by the Flat River on the north, Bridge Street on the west, and adjacent industrial buildings on the east and south. Several schools, a hospital, and many residences are located within a one-mile radius of the site, almost 6000 people live within this area.

The Belding Warehouse facility is privately owned and consists of two main buildings. The site is a single-story building consisting of three large rooms, each approximately 10,000 square feet in area. This building has a concrete floor and foundation, brick and block walls, and a metal roof. Two of the three rooms were packed with crates of the WWII surplus material; the third room was empty. Evidence of cracks in the concrete floor, leaks in the roof, and floor drains with an uncertain discharge location pointed towards the potential for release of radium-226 into the environment. The building is attached to a separate, three-story building that was not used for storage of the surplus material and thus was not contaminated.

In the late 1940s, Aircraft Components, Inc., of Benton Harbor, Michigan, purchased the radium-paint aircraft components as military surplus for resale. Aircraft Components stored the surplus material in several Benton Harbor locations, including in its main warehouse building which is now also a Superfund cleanup site. After the owners of the company died in the early 1990s the main warehouse building in Benton Harbor was sold along with its contents. The new owners of the Benton Harbor warehouse sold some of the surplus material to a salvage facility in Arkansas whose radiation alarm was tripped during a delivery of the material. The facility notified the Arkansas Department of Health, which traced the shipment to Michigan and then notified the Michigan Department of Public Health's Division of Radiological Protection. The Division of Radiological Protection is now called the Drinking Water and Radiological Protection Division and is a part of the Michigan Department of Environmental Quality (MDEQ).

MDEQ staff determined that the origin of the material was the Aircraft Components Inc., warehouse in Benton Harbor. The MDEQ interviewed the new owners of the warehouse and determined that a large portion of their inventory had been sold to another Michigan firm (H & K Sales) and moved to Belding, Michigan. The MDEQ investigated the Belding Warehouse facility in late September 1994 and estimated that thousands of radium-painted gauges and other aircraft components were packed in wooden crates inside part of the warehouse facility. Using radiation detection equipment, the MDEQ measured

ambient gamma ray dose rate readings within the building at more than 700 times the level that naturally occurs in Michigan. In October 1994, the EPA and the MDEQ conducted a radiological survey at the site and confirmed the MDEQ's initial findings.

In June 1995, the Agency for Toxic Substances and Disease Registry issued a public health advisory and recommended that the site be addressed by the EPA without delay. ATSDR was concerned that a fire at the warehouse could result in the widespread dispersal of radium into the environment by the smoke plume and by water runoff into the adjacent Flat River. In September 1995, the site was nominated for inclusion on the EPA's National Priorities List (NPL), which made it eligible for study and cleanup under the Superfund law. The site was added to the NPL in July 1996.

In October 1995, the EPA met with officials from the U. S. Air Force in Washington, D.C. and requested that they undertake the cleanup of the radium-226-painted materials. The EPA considers the Air Force, which originally sold the radium-painted gauges and other materials to Aircraft Components, to be a potentially responsible party as defined by the Superfund Law. The Air Force declined to participate in a cleanup at that time, citing budgetary and logistical reasons.

In February 1996, the EPA, with assistance from the MDEQ, conducted a detailed inspection of the site and prepared a document called an Engineering Evaluation/Cost Analysis (EE/CA). An EE/CA is a type of study that the EPA uses to evaluate removal program cleanup alternatives and to request Superfund money for cleanup of sites that pose immediate threats to public health and the environment. A site risk evaluation performed as part of the EE/CA by the U.S. EPA concluded that people working in the warehouse buildings could be exposed to harmful levels of radiation from radium and/or radon gas, which is generated by the radioactive decay of radium. EPA and MDEQ shared ATSDR's concern that radium could be released to the environment should there be a fire, or as the result of other events such as vandalism or theft.

The EPA began the planning stage of the cleanup in September 1996. At that time, the EPA contracted with another federal agency, the U.S. Department of the Interior's Bureau of Reclamation (USBR), to manage the cleanup. Onsite cleanup work began in January 1997 and included the following activities:

- The building was secured to prevent release of radiation to the environment during the handling of the radium-painted materials and to prevent entrance to the clean-up areas by untrained persons;
- A detailed, base-line radiation survey using radiation-detection devices was performed in the buildings: (1) To determine where "hotspots" existed to alert site clean-up workers and prevent exposure to high doses of radiation during the cleanup; and (2) to more accurately predict where radium-painted items were stored (before the large number of storage crates were opened for sorting);
- Radium-painted materials were segregated and packed into proper containers for shipment to a disposal facility in the state of Washington. Two shipments, each containing an average of 85 containers of radium painted materials, were sent off-site for disposal. Each container held between 200 and 300 radium-painted components, which means more than 34,000 radium-painted aircraft components were transported off-site for disposal;
- A waste shredder was set up in the building to process packaging materials and other non-hazardous items for disposal in a local landfill. These materials were tested to ensure that they did not exceed the federal or state criterion for disposal of radioactive items in municipal landfills. Approximately 56 loads of material were sent to the local landfill; each load contained about 540 cubic feet (averaging about 4.5 tons) of shredded wastes, for a total of 30,240 cubic feet (252 tons). Using the local landfill was a safe and cost-effective alternative to sending the non-hazardous wastes to a disposal facility in Utah;
- Approximately 1,000 cubic feet of material was packaged and shipped to a low-level radioactive waste disposal facility in Utah. This material was not painted with radium-226, but had enough radium-226 dust in it to exceed the federal criterion for disposal in the local landfill;
- More than 4,500 cubic feet of aircraft components and other materials were subjected to radiation surveys, cleaned if necessary, and then released back to the original owners (H&K Sales, Inc.) for unrestricted use, including resale to collectors, etc. Items such as airplane propellers, nuts and bolts, and certain pieces of heavy machinery were reclaimed by the owners, saving the U.S. EPA substantial sums in disposal costs; and
- Smaller amounts of other hazardous items, including radium-226-painted components containing such materials as mercury and diesel fuel,were properly packaged and shipped off-site for disposal. For example, the mercury-containing components were shipped to a processing facility in Texas where the mercury will be reclaimed for re-use. The radium 226-painted components will then be sent to the disposal facility in the state of Washington.

EPA has determined that no further remedial action needs to take place at the site for the following reasons:

- The site no longer contains radium-226 above standards or above naturally-occurring levels.
- The warehouse buildings have been emptied of the radium-painted materials, thus the risk of release of radium-226 to the environment (air, ground water, surface water, or soil) ended.
- There are several floor drains in Rooms 1 and 2 however, these drains had been plugged prior to the placement of the radium-painted materials at the site and thus were not a potential conduit for radium-226 to be released to the environment. During the final radiation survey, the drains were found not to have radium-226-contamination in them.
- Radiation survey data from certain areas outside of the site building ensured that no radium was tracked off-site by site cleanup workers and that no radium had been released to the environment in the short time that the materials had been stored at the warehouse.
- Radon gas levels are at a level below the acceptable criteria of 4 pCi/L inside the buildings.

All risks to human health and the environment posed by the site have been removed.

EPA, with concurrence from the State of Michigan, has determined that all appropriate Fund-financed responses under CERCLA at the H & K Sales Superfund Site have been completed, and no further CERCLA response is appropriate in order to provide protection of human health and the environment. Therefore, EPA proposes to delete the site from the NPL.

Dated: March 13, 1998.

David Ullrich,

Acting Regional Administrator, Region V.

[FR Doc. 98–7932 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42203A; FRL–5769–7]

RIN 2070–AC76

Testing Consent Order and Export Notification Requirements for Diethanolamine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 26, 1996, EPA proposed a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers and processors of 21 hazardous air pollutants (HAPs) to test these substances for certain health effects. Included as one of these chemical substances was diethanolamine (CAS No. 111–42–2). EPA invited the submission of proposals for enforceable consent agreements (ECAs) for pharmacokinetics testing of the HAPs chemicals and received a proposal for testing diethanolamine from the Chemical Manufacturers Association, Alkanolamines Panel (CMA Alkanolamines Panel). In a previous document EPA solicited interested parties to monitor or participate in negotiations on an ECA for diethanolamine. EPA is proposing that if an ECA is successfully concluded for diethanolamine, then the subsequent publication of the TSCA section 4 testing consent order (Order) in the **Federal Register** would add diethanolamine to the table of testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers. As a result of the proposed addition of diethanolamine, all exporters of diethanolamine, including persons who do not sign the ECA, would be subject to export notification requirements under section 12(b) of TSCA.

DATES: Written comments on this proposed rule must be received on or before May 29, 1998.

ADDRESSES: Each comment must bear the docket control number, OPPTS–42203A. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–99, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. following the instructions under Unit IV. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epamail.epa.gov.

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Information and Testing Branch (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/EPA-TOX/1998/).

II. Development of Enforceable Consent Agreement for Diethanolamine

Diethanolamine is one of the chemicals proposed for health effects testing in a proposed HAPs test rule under section 4(a) of TSCA in the **Federal Register** of June 26, 1996 (61 FR 33178) (FRL–4869–1). The proposed HAPs test rule was amended on December 24, 1997 (62 FR 67466) (FRL–5742–2). In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) testing for the chemicals included in the proposed HAPs test rule. These proposals could provide the basis for negotiation of ECAs, which, if successfully concluded, would be incorporated into Orders. The PK studies would be used to conduct route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. A proposal for PK testing for diethanolamine was submitted by the CMA Alkanolamines Panel to EPA on November 25, 1996. The Agency reviewed this alternative testing proposal and prepared a preliminary technical analysis of the proposal which it sent to the CMA Alkanolamines Panel Panel on November 21, 1997. The CMA Alkanolamines Panel Panel responded on December 31, 1997 that it has a continued interest in pursuing the ECA process for diethanolamine. EPA has decided to proceed with the ECA process for diethanolamine. EPA has published a document soliciting interested parties to monitor or participate in negotiations on an ECA for PK testing of diethanolamine (63 FR 3109, January 21, 1998) (FRL–5766–7). The procedures for ECA negotiations are described at 40 CFR 790.22(b).

If the ECA for diethanolamine is successfully concluded, and an Order is published in the **Federal Register**, testing to develop needed data would be required of those persons that have signed the agreement. Section 12(b) of TSCA provides that if any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 of TSCA, that person shall notify EPA of this export or intent to export. This requirement applies to data obtained from either a test rule or an ECA and Order under the authority of section 4 of TSCA. EPA intends the ECA to include the export notification requirements of section 12(b) of TSCA, codified at 40 CFR part 707, subpart D.

III. Publication of Testing Consent Order

EPA is proposing that if an ECA is successfully concluded for diethanolamine, the publication of the Order in the **Federal Register** would add diethanolamine to the table in 40 CFR 799.5000, Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

Exporters of chemicals listed at 40 CFR 799.5000 are required under 40 CFR 799.19, Chemical imports and exports, to comply with the export notification requirements of 40 CFR part 707, subpart D. This proposed rule,

when finalized, would amend § 799.5000, and, in accordance with 40 CFR 799.19, all exporters of diethanolamine, including persons who do not sign the ECA, would be subject to export notification requirements under 40 CFR part 707, subpart D.

Under 40 CFR 707.65(a)(2)(ii), a person who exports or intends to export for the first time to a particular foreign country a chemical subject to TSCA section 4 data requirements must submit a one-time notice to EPA identifying the chemical and country of import. A single notice can cover multiple chemicals and multiple countries. If additional importing countries are subsequently added, additional export notices must be submitted to EPA. Other procedures for submitting export notifications to EPA are described in 40 CFR 707.65.

Under 40 CFR 707.67, the contents of the export notification from the exporter or intended exporter to EPA shall include:

1. The name of the chemical (i.e., in this case, diethanolamine).
2. The name and address of the exporter.
3. The country(ies) of import.
4. The date(s) of export or intended export.
5. The section of TSCA under which EPA has taken action (i.e., in this case, section 4 of TSCA).

Following receipt of the section 12(b) notification from the exporter or intended exporter, under 40 CFR 707.70, EPA will provide notice of the export or intended export to the affected foreign government(s).

IV. Public Record and Electronic Submissions

The official record for this rulemaking (including comments and data submitted electronically as described below), including the public version, that does not include any information claimed as CBI, has been established for this rulemaking under docket control number OPPTS–42203A. The official record for this document also includes all material and submissions filed under docket control number [OPPTS–42187A; FRL–4869–1], the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number [OPPTS–42187B; FRL–4869–1], the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:
oppt.ncic@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 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42203A. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

V. Regulatory Assessment Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA does not believe that the impacts of this proposed rule constitute a significant economic impact on small entities.

Export regulations promulgated pursuant to section 12(b) of TSCA—40 CFR part 707, subpart D—require only a one-time notification to each foreign country of export for each chemical for which data are required under section 4 of TSCA. In an analysis of the economic impacts of the July 27, 1993, amendment to the rules implementing section 12(b) of TSCA (58 FR 40238), EPA estimated that the one-time cost of preparing and submitting the TSCA section 12(b) notification was $62.60. See U.S. EPA, "Economic Analysis in Support of the Final Rule to Amend Rule Promulgated Under TSCA Section 12(b)," OPPT/ETD/RIB, June 1992, contained in the record for this rulemaking, and referenced in the amended proposed HAPs test rule (62 FR 67466, December 24, 1997). Inflated through the last quarter of 1996 using the Consumer Price Index, the current cost is estimated to be $69.56. Although data available to EPA regarding export shipments of the HAPs chemicals are limited, a small exporter would have to have annual revenues below $6,956 per chemical/country combination in order to be impacted at a 1% or greater level. For example, a small exporter filing 3 notifications per year would have to have annual sales revenues below $20,868 (3 x $6,956) in order to be classified as impacted at the greater than 1% level. EPA believes that it is reasonable to assume that few, if any, small exporters would file sufficient export notifications to be impacted at or above the 1% level. Based on this, the export notification requirements triggered by the ECA for diethanolamine would be unlikely to have a significant economic impact on small exporters. Because EPA has concluded that there is no significant impact on small exporters, the Agency does not need to determine the number or size of the entities that would be impacted at a 1% or greater level.

Therefore, the Agency certifies that this proposed rule, if finalized, would not have a significant economic impact on small entities.

B. Executive Order 12866; Executive Order 12898; Executive Order 13045

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). It does not involve special considerations of environmental-justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), nor raise any issues regarding children's environmental-health risks under Executive Order 13045 (62 FR 1985, April 23, 1997) because the Executive Order does not apply to actions expected to have an economic impact of less than $100 million.

C. Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid control number assigned by OMB. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0030 (EPA ICR No. 0795). The public reporting burden for the collection of information is estimated to average 0.55 hour per response.

D. Unfunded Mandates Reform Act

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 certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. EPA has determined that this action 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 1 year. Therefore, this action is not subject to the requirements of sections 202 and 205 of UMRA. The requirements of sections

203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to this proposed rule because the rule would only affect the private sector, i.e., those companies that test chemicals.

E. National Technology Transfer and Advancement Act

This proposed regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Exports, Hazardous substances, Health, Laboratories, Reporting and recordkeeping requirements.

Dated: March 13, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding diethanolamine to the table in CAS number order to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS number	Substance or mixture name	Testing	FR publication date
*	*	*	*
111–42–2	Diethanolamine	Health effects	[insert date for final rule.]
*	*	*	*

* * * * *

[FR Doc. 98–8211 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42202A; FRL–5769–6]

RIN 2070–AC76

Testing Consent Order and Export Notification Requirements for Ethylene Glycol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On June 26, 1996, EPA proposed a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers and processors of 21 hazardous air pollutants (HAPs) to test these substances for certain health effects. Included as one of these chemical substances was ethylene glycol (CAS No. 107–21–1). EPA invited the submission of proposals for enforceable consent agreements (ECAs) for pharmacokinetics testing of the HAPs chemicals and received a proposal for testing ethylene glycol from the Chemical Manufacturers Association, Alkanolamines Panel (CMA Alkanolamines Panel). In a previous document EPA solicited interested parties to monitor or participate in negotiations on an ECA for ethylene glycol. EPA is proposing that if an ECA is successfully concluded for ethylene glycol, then the subsequent publication of the TSCA section 4 testing consent order (Order) in the **Federal Register** would add ethylene glycol to the table of testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers. As a result of the proposed addition of ethylene glycol, all exporters of ethylene glycol, including persons who do not sign the ECA, would be subject to export notification requirements under section 12(b) of TSCA.

DATES: Written comments on this proposed rule must be received on or before (*May 29, 1998.*

ADDRESSES: Each comment must bear the docket control number, OPPTS–42202A. All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. G–99, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. following the instructions under Unit IV. of this preamble. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this document. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will make the information available to the public without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: *For additional information*: Susan B. Hazen, Director, Environmental Assistance Division (7408), Rm. ET–543B, Office of

Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epamail.epa.gov.

For technical information: Richard W. Leukroth, Jr., Project Manager, Chemical Information and Testing Branch (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (202) 260–0321; e-mail address: leukroth.rich@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Electronic Availability

Internet: Electronic copies of this document and various support documents are available from the EPA Home Page at the **Federal Register**—Environmental Documents entry for this document under "Laws and Regulations" (http://www.epa.gov/fedrgstr/EPA-TOX/1998/).

II. Development of Enforceable Consent Agreement for Ethylene Glycol

Ethylene glycol is one of the chemicals proposed for health effects testing in a proposed HAPs test rule under section 4(a) of TSCA in the **Federal Register** of June 26, 1996 (61 FR 33178) (FRL–4869–1). The proposed HAPs test rule was amended on December 24, 1997 (62 FR 67466) (FRL–5742–2). In the proposed HAPs test rule, EPA invited the submission of proposals for pharmacokinetics (PK) testing for the chemicals included in the proposed HAPs test rule. These proposals could provide the basis for negotiation of ECAs, which, if successfully concluded, would be incorporated into Orders. The PK studies would be used to conduct route-to-route extrapolation of toxicity data from routes other than inhalation to predict the effects of inhalation exposure, as an alternative to testing proposed under the HAPs test rule. A proposal for PK testing for ethylene glycol was submitted by the CMA Ethylene Glycol Panel (CMA EG Panel) to EPA on November 5, 1996. The Agency reviewed this alternative testing proposal and prepared a preliminary technical analysis of the proposal which it sent to the CMA EG Panel on August 26, 1997. The CMA EG Panel responded on October 6, 1997 that it has a continued interest in pursuing the ECA process for ethylene glycol. EPA has decided to proceed with the ECA process for ethylene glycol. EPA has published a document soliciting interested parties to monitor or participate in negotiations on an ECA for PK testing of ethylene glycol (63 FR 3111, January 21, 1998) (FRL–5766–6). The procedures for ECA negotiations are described at 40 CFR 790.22(b).

If the ECA for ethylene glycol is successfully concluded, and an Order is published in the **Federal Register**, testing to develop needed data would be required of those persons that have signed the agreement. Section 12(b) of TSCA provides that if any person exports or intends to export to a foreign country a chemical substance or mixture for which the submission of data is required under section 4 of TSCA, that person shall notify EPA of this export or intent to export. This requirement applies to data obtained from either a test rule or an ECA and Order under the authority of section 4 of TSCA. EPA intends the ECA to include the export notification requirements of section 12(b) of TSCA, codified at 40 CFR part 707, subpart D.

III. Publication of Testing Consent Order

EPA is proposing that if an ECA is successfully concluded for ethylene glycol, the publication of the Order in the **Federal Register** would add ethylene glycol to the table in 40 CFR 799.5000, Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

Exporters of chemicals listed at 40 CFR 799.5000 are required under 40 CFR 799.19, Chemical imports and exports, to comply with the export notification requirements of 40 CFR part 707, subpart D. This proposed rule, when finalized, would amend § 799.5000, and, in accordance with 40 CFR 799.19, all exporters of ethylene glycol, including persons who do not sign the ECA, would be subject to export notification requirements under 40 CFR part 707, subpart D.

Under 40 CFR 707.65(a)(2)(ii), a person who exports or intends to export for the first time to a particular foreign country a chemical subject to TSCA section 4 data requirements must submit a one-time notice to EPA identifying the chemical and country of import. A single notice can cover multiple chemicals and multiple countries. If additional importing countries are subsequently added, additional export notices must be submitted to EPA. Other procedures for submitting export notifications to EPA are described in 40 CFR 707.65.

Under 40 CFR 707.67, the contents of the export notification from the exporter or intended exporter to EPA shall include:

1. The name of the chemical (i.e., in this case, ethylene glycol).
2. The name and address of the exporter.
3. The country(ies) of import.
4. The date(s) of export or intended export.
5. The section of TSCA under which EPA has taken action (i.e., in this case, section 4 of TSCA).

Following receipt of the section 12(b) notification from the exporter or intended exporter, under 40 CFR 707.70, EPA will provide notice of the export or intended export to the affected foreign government(s).

IV. Public Record and Electronic Submissions

The official record for this rulemaking (including comments and data submitted electronically as described below), including the public version, that does not include any information claimed as CBI, has been established for this rulemaking under docket control number OPPTS–42202A. The official record for this document also includes all material and submissions filed under docket control number [OPPTS–42187A; FRL–4869–1], the record for the proposed HAPs test rule, as amended, and all materials and submissions filed under docket control number [OPPTS–42187B; FRL–4869–1], the record for the receipt of alternative testing proposals for developing ECAs for HAPs chemicals. The public version of this record is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at:

oppt.ncic@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 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number, OPPTS–42202A. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

V. Regulatory Assessment Requirements

A. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA does not believe that the impacts of this proposed rule constitute a significant economic impact on small entities.

Export regulations promulgated pursuant to section 12(b) of TSCA—40 CFR part 707, subpart D—require only a one-time notification to each foreign country of export for each chemical for which data are required under section 4 of TSCA. In an analysis of the economic impacts of the July 27, 1993, amendment to the rules implementing section 12(b) of TSCA (58 FR 40238), EPA estimated that the one-time cost of preparing and submitting the TSCA section 12(b) notification was $62.60. See U.S. EPA, "Economic Analysis in Support of the Final Rule to Amend Rule Promulgated Under TSCA Section 12(b)," OPPT/ETD/RIB, June 1992, contained in the record for this rulemaking, and referenced in the amended proposed HAPs test rule (62 FR 67466, December 24, 1997). Inflated through the last quarter of 1996 using the Consumer Price Index, the current cost is estimated to be $69.56. Although data available to EPA regarding export shipments of the HAPs chemicals are limited, a small exporter would have to have annual revenues below $6,956 per chemical/country combination in order to be impacted at a 1% or greater level. For example, a small exporter filing 3 notifications per year would have to have annual sales revenues below $20,868 (3 x $6,956) in order to be classified as impacted at the greater than 1% level. EPA believes that it is reasonable to assume that few, if any, small exporters would file sufficient export notifications to be impacted at or above the 1% level. Based on this, the export notification requirements triggered by the ECA for ethylene glycol would be unlikely to have a significant economic impact on small exporters. Because EPA has concluded that there is no significant impact on small exporters, the Agency does not need to determine the number or size of the entities that would be impacted at a 1% or greater level.

Therefore, the Agency certifies that this proposed rule, if finalized, would not have a significant economic impact on small entities.

B. Executive Order 12866; Executive Order 12898; Executive Order 13045

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed rule is not a "significant regulatory action" subject to review by the Office of Management and Budget (OMB). It does not involve special considerations of environmental-justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994), nor raise any issues regarding children's environmental-health risks under Executive Order 13045 (62 FR 1985, April 23, 1997) because the Executive Order does not apply to actions expected to have an economic impact of less than $100 million.

C. Paperwork Reduction Act

An agency may not conduct or sponsor, and a person is not required to respond to, an information collection request unless it displays a currently valid control number assigned by OMB. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9. The information collection requirements related to this action have already been approved by OMB pursuant to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0030 (EPA ICR No. 0795). The public reporting burden for the collection of information is estimated to average 0.55 hour per response.

D. Unfunded Mandates Reform Act

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 certain regulatory actions on State, local, and tribal governments and the private sector, and to seek input from State, local, and tribal governments on certain regulatory actions. EPA has determined that this action 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 1 year. Therefore, this action is not subject to the requirements of sections 202 and 205 of UMRA. The requirements of sections 203 and 204 of UMRA which relate to regulatory requirements that might significantly or uniquely affect small governments and to regulatory proposals that contain a significant Federal intergovernmental mandate, respectively, also do not apply to this proposed rule because the rule would only affect the private sector, i.e., those companies that test chemicals.

E. National Technology Transfer and Advancement Act

This proposed regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. EPA invites public comment on this conclusion.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Exports, Hazardous substances, Health, Laboratories, Reporting and recordkeeping requirements.

Dated: March 13, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Section 799.5000 is amended by adding ethylene glycol to the table in CAS number order to read as follows:

§ 799.5000 Testing consent orders for substances and mixtures with Chemical Abstract Service Registry Numbers.

* * * * *

CAS number	Substance or mixture name	Testing	FR publication date
*	*	*	* *
107–21–1	Ethylene glycol	Health effects	[Insert date of final rule]

CAS number	Substance or mixture name	Testing	FR publication date
*	*	* * *	*

* * * * *

[FR Doc. 98–8210 Filed 3–27–98; 8:45 am]
BILLING CODE 6560–50–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–7242]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Matthew B. Miller, P.E., Chief, Hazards Study Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646–3461.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Associate Director for Mitigation certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of the Executive Order 12866 of September 30,1 993, Regulatory Planning and Review, 58 FR 51735.

Exeuctive Order 12812, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Alaska	Municipality of Anchorage.	South Fork Little Campbell Creek.	At upstream side of East Frontage Road of New Seward Highway.	*121	*121
			At downstream side of Petersburg Street	*139	*141
			At downstream side of Lake Otis Highway.	*192	*192

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
*To indicate feet, Greater Anchorage Borough, Post Quake, U.S. Coastal and Geodetic Survey, Mean Sea Level 1972. Maps are available for inspection at the Department of Public Works, Project Management and Engineering Division, 3500 East Tudor Road, Anchorage, Alaska. Send comments to The Honorable Rick Mystrom, Mayor, Municipality of Anchorage, P.O. Box 196650, Anchorage, Alaska 99519–6650.					
Arkansas	West Memphis (City), Critenden County.	Fifteen Mile Bayou	Approximately 1.6 miles downstream of U.S. Highways 70 and 79.	None	*209
			At confluence with Ten Mile Bayou Diversion Ditch.	*211	*211
			At Missouri Pacific Railroad	None	*212
		Ten Mile Bayou Diversion Ditch.	At confluence with Fifteen Mile Bayou	*211	*211
			Approximately 850 feet downstream of North Frontage Road.	*214	*214
			At confluence with Ten Mile Bayou	*215	*215
		Ten Mile Bayou	At confluence with Ten Mile Bayou Diversion Ditch.	*215	*215
			At Missouri Pacific Railroad	*215	*215
			Approximately 1 mile upstream of Missouri Pacific Railroad.	None	*215
Maps are available for inspection at 205 South Redding, West Memphis, Arkansas. Send comments to The Honorable Al Boals, Mayor, City of West Memphis, P.O. Box 1728, West Memphis, Arkansas 72301.					
California	Alameda County (Unincorporated Areas).	San Lorenzo Creek (Line B (Zone 2)).	At tidal gate	*7	*7
			Approximately 320 feet downstream of Southern Pacific Railroad.	*7	*8
			At upstream side of 14th Street	None	*34
		San Leandro (Line A (Zone 2)).	At mouth	None	*7
			Approximately 140 feet downstream of confluence of Crow Creek.	*167	*169
Maps are available for inspection at the Alameda County Public Works Department, 399 Elmhurst Street, Hayward, California. Send comments to The Honorable Susan Muranishi, Commissioner, Alameda County, 1221 Oak Street, Suite 555, Oakland, California 94612.					
California	Firebaugh (City), Fresno and Madera Counties.	San Joaquin River	Approximately 2.1 miles downstream of 7½ Avenue.	None	*141
			Approximately 1.9 miles upstream of 7½ Avenue.	None	*146
Maps are available for inspection at the City of Firebaugh City Hall, 1575 11th Street, Firebaugh, California. Send comments to Mr. L. Keyth Durham, City Manager, City of Firebaugh, 1575 11th Street, Firebaugh, California 93622.					
California	Fremont (City), Alameda County.	Line K (Zone 6)	At confluence with Line E (Zone 6) Lagume Creek.	None	*48
			Approximately 2,170 feet upstream of Paseo Padre Parkway (at downstream end of 60-inch reinforced concrete pipe).	*255	*263
		Line B (Zone 5)	At upstream side of Interstate 880	None	*32
			Approximately 630 feet upstream of Paseo Padre Parkway.	None	*56
		Line C (Zone 6), (Torges Creek).	At confluence of Line D (Zone 6)	None	*13
			Just upstream of I–680	None	*183
		Line E (Zone 6) Laguna Creek.	At mouth	*9	*9
			Approximately 2,400 feet downstream of Cushing Parkway.	*9	*10
			Approximately 50 feet upstream of parking lot driveway.	None	*56
		Line F (Zone 6), Aroyo Del Agua Caliente Creek.	At confluence with Line E (Zone 6) Laguna Creek.	*9	*10
			Approximately 1,310 feet upstream of Agua Caliente Creek.	None	*200

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the City of Fremont Planning Department, 39550 Liberty Street, Fremont, California. Send comments to The Honorable Gus Morrison, Mayor, City of Fremont, P.O. 5006, Fremont, California 94537–5006.					
California	Fresno County (Unincorporated Areas).	San Joaquin River	Approximately 5.6 miles downstream of confluence of Firebaugh Wasteway.	None	*138
			0.2 mile upstream of confluence of Firebaugh Wasteway with San Joaquin River.	*145	*147
Maps are available for inspection at the Fresno County Office, 2220 Tulare Street, Fresno, California. Send comments to Mr. William Randolph, County Administrative Officer, 2281 Tulare Street, Room 304, Fresno, California 93721.					
California	Hayward (City), Alameda County.	Alameda Creek-Line A (Zone 3A).	Approximately 1,350 feet downstream of tidal gate.	*7	*7
			At tidal gate	*9	*8
			Approximately 150 feet upstream of Interstate 880.	None	*11
		Ward Creek-Line B (Zone 3A).	Approximately 180 feet upstream of confluence of Line D (Zone 3A) and Alameda Creek-Line A (Zone 3A).	*10	*10
			Approximately 400 feet upstream of confluence of Line D (Zone 3A) and Alameda Creek-Line A (Zone 3A).	*10	*11
			Approximately 730 feet upstream of Southern Pacific Railroad.	*46	*47
		San Lorenzo Creek-Line B (Zone 2).	At downstream corporate limits	None	*83
			At upstream corporate limits	None	*117
		Line D (Zone 3A)	At confluence with Line A (Zone 3A)	*10	*10
			Approximately 350 feet upstream of Industrial Parkway West.	*10	*11
			Approximately 1,500 feet upstream of Union Pacific Railroad.	*17	*17
		Sulphur Creek Line K (Zone 2).	Approximately 3,500 feet downstream of Southern Pacific Railroad.	*7	*7
			Approximately 2,100 feet downstream of Southern Pacific Railroad.	*7	*8
			Approximately 350 feet upstream of Interstate 80.	*56	*57
Maps are available for inspection at the City of Hayward Department of Public Works, 25151 Clawiter Road, Hayward, California. Send comments to The Honorable Roberts Cooper, Mayor, City of Hayward, 25151 Clawiter Road, Hayward, California 94545.					
California	Madera County (Unincorporated Areas).	San Joaquin River	Approximately 5.6 miles downstream of confluence of Firebaugh Wasteway.	None	*138
			Approximately 0.2 mile upstream of confluence of Firebaugh Wasteway with San Joaquin River.	*145	*147
Maps are available for inspection at the Madera County Engineering Department, 135 West Yosemite Avenue, Madera, California. Send comments to Mr. Stell Manfredi, County Administrative Officer, 209 West Yosemite Avenue, Madera, California 93637.					
California	Newark (City) Alameda County.	Line B	Approximately 3,400 feet downstream of Southern Pacific Railroad.	*12	*12
			Approximately 2,800 feet downstream of Southern Pacific Railroad.	*13	*12
			At upstream corporate limit, approximately 415 feet upstream of Cedar Boulevard.	*28	*30
		Line F–1	At downstream corporate limit, at confluence with Plummer Creek.	*8	*8
			Just upstream of Elm Street	*10	*11
			Approximately 1,250 feet upstream of Cedar Boulevard.	*33	*35
Maps are available for inspection at the Newark City Clerk's Office, City Administration Building, 37101 Newark Boulevard, Newark, California. Send comments to The Honorable David Smith, Mayor, City of Newark, 37101 Newark Boulevard, Newark, California 94560.					
California	San Leandro (City), Alameda County.	San Leandro—Line A (Zone 2).	At tidal gate	*7	*7

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			Approximately 320 feet, downstream of Southern Pacific Railroad.	*7	*8
			At 14th Street	None	*34
Maps are available for inspection at the Permit Center Kiosk, 835 East 14th Street, San Leandro, California.					
Send comments to The Honorable Ellen Corbett, Mayor, City of San Leandro, 835 East 14th Street, San Leandro, California 94577.					
California	Union City (City), Alameda County.	Line M (Zone 5)	At gated structure approximately .24 mile downstream of Royal Ann Drive.	*31	*32
			Approximately .33 mile downstream of Gregory Way.	*46	*47
			Approximately 560 feet upstream of Gregory Way.	*47	*47
		Alameda Creek (Line A (Zone 3A)).	Approximately 1,350 feet downstream of tidal gates.	*7	*7
			At upstream side of tidal gates	*9	*8
			Approximately 1,000 feet upstream of Interstate 880.	None	*10
Maps are available for inspection at the City of Union City Public Works Department, Engineering Division, 34009 Alvarado Niles Road, Union City, California.					
Send comments to The Honorable Mark Green, Mayor, City of Union City, 34009 Alvarado Niles Road, Union City, California 94587.					
California	Winters (City), Yolo County.	Dry Creek	Approximately 1,900 feet downstream of private road (wooden bridge).	*121	*121
			Approximately 450 feet downstream of private road (wooden bridge).	*122	*121
			Approximately 5,010 feet (.95 mile) upstream of State Highway 128.	None	*150
Maps are available for inspection at the City of Winters Department of Public Works, 318 First Street, Winters, California.					
Send comments to The Honorable Harold Anderson, Mayor, City of Winters, 318 First Street, Winters, California 95694.					
California	Yolo County (Unincorporated (Areas).	Dry Creek	Approximately 1,900 feet downstream of private road (wooden bridge).	*121	*121
			Approximately 450 feet downstream of private road (wooden bridge).	*122	*121
			Approximately 650 feet upstream of County Road 33.	None	*175
Maps are available for inspection at the Yolo County Community Development Agency, 292 West Beamer Street, Woodland, California.					
Send comments to Mr. Roy Pederson, Yolo County Administrative Officer, 625 Court Street, Woodland, California 95695.					
California	Yolo County (Unincorporated Areas).	South Fork Willow Slough	Approximately 1,350 feet downstream of Interstate 505.	None	*141
			Approximately 1,500 feet upstream of County Road 89.	*151	*152
			Approximately 1,650 feet upstream of County Road 89.	*152	*152
		Cottonwood Slough	Approximately 1,120 feet downstream of Interstate 505.	None	*141
			Approximately 2,770 feet upstream of Interstate 505.	None	*147
		Dry Slough	At confluence with Willow Slough	None	*53
			Approximately 980 feet above County Road 95.	None	*93
		North Davis Drain	At Southern Pacific Railroad	None	*46
			At divergence from Dry Slough	None	*85
		Union School Slough	At confluence with Willow Slough	None	*66
			Approximately 790 feet upstream of County Road 95.	None	*91
		Unnamed Tributary of Union School Slough.	At confluence with Union School Slough	None	*72
			At divergence from Dry Slough	None	*78
		Unnamed Tributary of Willow Slough.	At upstream side of Road 96	None	*81
			At divergence from Dry Slough	None	*88
		Unnamed Overflow Area South of County Road 31.	Approximately 1,300 feet downstream of County Road 97.	None	*71
			At divergence from Dry Slough	None	*85

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Willow Slough	Approximately 275 feet downstream of Southern Pacific Railroad.	None	*47
			Approximaetly 650 feet upstream of County Road 95.	None	*92
		Willow Slough Left Overbank No. 1.	At convergence with Willow Slough Left Overbank No. 2.	None	*83
			At divergence from Willow Slough	None	*83
		Willow Slough Left Overbank No. 2.	At confluence with Willow Slough	None	*76
			At divergence from Willow Slough	None	*83
		Yolo County Airport Drainage Channel.	At confluence with Unnamed Tributary of Willow Slough.	None	*86
			Approximately 7,750 feet upstream of confluence with Unnamed Tributary of Willow Slough.	None	*88
Maps are available for inspection at the Community Development Agency, 292 West Beamer Street, Woodland, California. Send comments to Mr. Roy Pederson, Yolo County Administrative Officer, 6251 Court Street, Woodland, California 95695.					
Iowa	Urbandale (City) Dallas and Polk Counties.	Walnut Creek	Approximately 1,400 feet downstream of the 200th Street Bridge.	None	*893
			Approximately 360 feet upstream of the 200th Street Bridge.	None	*896
Maps are available for inspection at the Department of Engineering, Public Works, 9401 Hickman Road, Urbandale, Iowa. Send comments to The Honorable Brad Zaun, Mayor, City of Urbandale, 3315 70th Street, Urbandale, Iowa 50322–3540.					
Louisiana	Acadia Parish (Unincorporated Areas).	Bayou Queue de Tortue	Approximately 2,400 feet downstream of State Route 719.	None	*27
			Approximately 50 feet downstream of State Route 719.	None	*28
Maps are available for inspection at 568 Court Circle, Crowley, Louisiana. Send comments to The Honorable Glen Bihm, President, Acadia Parish Police Jury, P.O. Box A, Crowley, Louisiana 70527.					
Louisiana	Warren County and Incorporated Areas.	North River	Approximately 1,000 feet downstream of Chicago, Rock Island and Pacific Railroad.	None	+780
			Approximately 1,400 feet upstream of 33rd Avenue.	None	+832
		Plug Run	Approximately 500 feet downstream of Summerset Road.	None	+796
			Approximately 3,700 feet upstream of Chicago, Rock Island and Pacific Railroad.	None	+845
		Unnamed Tributary No. 1	Approximately 160 feet downstream of 165th Place.	None	+782
			Approximately 400 feet downstream of South Fifth Street.	None	+802
		Unnamed Tributary No. 2	Approximately 800 feet downstream of Chicago, Rock Island and Pacific Railroad.	None	+780
			Approximately 1,300 feet upstream of South Fifth Street.	None	+800
		Middle Creek	Approximately 1,900 feet downstream of 50th Avenue.	None	+859
			Just upstream of 20th Avenue	None	+948
		Cavitt Creek	Approximately 1,200 feet downstream of Grimes Street.	None	+802
			Just upstream of West Iowa Avenue	None	+868

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Warren County Courthouse Annex, 217 West Salem Indianola, Iowa.					
Send comments to The Honorable Del Baber, Chairman, Warren County Board of Supervisors, County Courthouse, 115 North Howard, Indianola, Iowa 50125.					
Maps are available for inspection at the City of Carlisle City Hall, 195 North First Street, Carlisle, Iowa.					
Send comments to The Honorable Ray Schicher, Mayor, City of Carlisle, 195 North First Street, Carlisle, Iowa 50047.					
Maps are available for inspection at the City of Norwalk City Hall, 705 North Avenue, Norwalk, Iowa.					
Send comments to The Honorable Jerry L. Starkweather, Mayor, City of Norwalk, 705 North Avenue, Norwalk, Iowa 50211.					
Maps are available for inspection at the City of Indianola City Hall, 110 North First Street, Indianola, Iowa.					
Send comments to The Honorable Jerry Kelly, Mayor, City of Indianola, P.O. Box 299, Indianola, Iowa 50125.					
Maps are available for inspection at the City of Ackworth City Hall, 104 Main Street, Ackworth, Iowa.					
Send comments to The Honorable Doreen Sutherland, Mayor, City of Ackworth, 104 Main Street, Ackworth, Iowa 50001.					
Maps are available for inspection at the City of Cumming City Hall, 607 Station Street, Cumming, Iowa.					
Send comments to The Honorable Michael Wayne, Mayor, City of Cumming, P.O. Box 100, Cumming, Iowa 50061.					
Nevada	Lyon County (Unincorporated Areas).	Overflow Area North of Truckee Canal.	Approximately 100 feet downstream of Southern Pacific Railroad.	None	*4,133
			Approximately 6,350 feet upstream of Main Street.	None	*4,193
		Overflow Area North of Truckee Canal (Unnamed Ditch).	At confluence with Overflow Area North of Truckee Canal.	None	*4,158
			Approximately 5,020 feet upstream of confluence with Overflow Area North of Truckee Canal.	None	*4,193
Maps are available for inspection at Lyon County Community Development, 16 South Center Street, Yerington, Nevada.					
Send comments to Mr. Steve Snyder, Lyon County Manager, 31 South Main Street, Yerington, Nevada 89447.					
Texas	Ector County and Incorporated Areas.	Monahans Draw	Approximately 6,200 feet downstream of Grandview Road.	*2,835	*2,834
			Approximately 100 feet downstream of Crane Avenue.	*2,877	*2,876
			At intersection of Tripp Avenue and 23rd Street.	*2,941	*2,940
			Approximately 50 feet upstream of State Route 866.	*3,042	*3,042
		Monahans Draw Tributary 1.	At confluence with Monahans Draw	*2,931	*2,930
			Just downstream of Cypress Road	*2,964	*2,963
		Monahans Draw Tributary 2.	At confluence with Monahans Draw	*2,977	*2,977
			Approximately 350 feet upstream of Damascus Drive.	None	*2,985
			Approximately 300 feet upstream of Westcliff Drive.	None	*3,000
			Approximately 3,500 feet upstream of Westcliff Drive, just downstream of an unnamed road.	*3,015	*3,015
		Muskingum Draw	At confluence with Monahans Draw	*2,870	*2,868
			At 57th Street	*2,943	*2,942
			Just upstream of Loop 338, located just upstream of Sprague Avenue.	None	*2,967
		Muskingum Draw South Tributary.	*At confluence with Muskingum Draw	None	*2,955
			At divergence from Muskingum Draw at Sprague Avenue.	None	*2,963
		Muskingum Draw South Overflow Channel.	At Stoner Road	None	*2,960
		West Side Drainage Channel.	At confluence with Monahans Draw	*2,896	*2,896
			Just upstream of Park Boulevard	*2,907	*2,905
			Approximately 200 feet upstream of Santa Monica Drive.	*2,913	*2,914
		Stream WSDC–D	At intersection of Third and Edison Streets.	*2,897	*2,896
			At Harless Avenue near the intersection of West 13th Street.	*2,907	*2,906

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Stream WSDC–DD	At intersection of Third Street and Kelly Avenue.	*2,896	*2,895
			Just east of West County Road near its intersection with Park Boulevard.	*2,901	*2,901
		East Side Channel	At confluence with Far East Channel	*2,856	*2,855
			Approximately 500 feet upstream of U.S. 80 Frontage Road.	None	*2,888
			Just downstream of Custer Avenue	None	*2,910
		East Side Channel Split Flow.	Approximately 800 feet upstream of confluence with East Side Channel.	None	*2,888
			Approximately 600 feet upstream of Pueblo Avenue.	None	*2,905
		Stream ESC–1	At confluence with East Side Channel	*2,889	*2,888
			Approximately 780 feet upstream of Pagewood Avenue.	*2,897	*2,895
		Far East Channel	Approximately 670 feet upstream of confluence of East Side Channel.	*2,856	*2,856
			Approximately 1,000 feet upstream of U.S. 80 Frontage Road.	*2,878	*2,878
			Approximately 150 feet upstream of Maple Avenue.	*2,908	*2,906
		Stream FEC–1	At confluence with Far East Channel	*2,888	*2,887
			Approximately 300 feet downstream of 42nd Street (or 2,800 feet upstream of confluence with Far East Channel).	*2,900	*2,899
		Stream FEC–1A	At confluence with Stream FEC–1	None	*2,892
			At divergence from Far East Channel	None	*2,905
		Stream FEC–S	At confluence with Far East Channel	*2,901	*2,900
			At divergence from Stream FEC–1A	*2,903	*2,903

Maps are available for inspection at the Ector County Public Works Department, County Annex Building, 1010 East Eighth Street, Odessa, Texas.

Send comments to The Honorable Jim Jordan, Ector County Judge, 300 North Grant, Odessa, Texas 79761.

Maps are available for inspection at the City of Odessa City Hall, 411 West Eighth, Odessa, Texas.

Send comments to The Honorable Mike Atkins, Mayor, City of Odessa, P.O. Box 4398, Odessa, Texas 79760.

Texas	Gonzales County (Unincorporated Areas).	San Marcos River	Approximately 1,600 feet downstream of confluence of Plum Creek at the County boundary.	None	*340
			Approximately 200 feet upstream of U.S. Highway 10 at the County boundary.	None	*356

Maps are available for inspection at the Gonzales County Courthouse, 1709 Sarah DeWitt Drive, Gonzales, Texas.

Send comments to The Honorable Henry Vollentine, Gonzales County Judge, 1709 Sarah DeWitt Drive, Gonzales, Texas 78629.

Texas	Guadalupe County (Unincorporated Areas).	San Marcos River	Approximately 175 feet upstream of U.S. highway 10 at the easternmost County boundary.	*358	*355
			Just upstream of U.S. Highway 90	*380	*379
			Just upstream of State Highway 671	*411	*409
			Just upstream of State Highway 20	*442	*442
			At FM 1977	*487	*485
			Approximately 1.9 miles upstream of Access Road at the northernmost County boundary.	*548	*551

Maps are available for inspection at 415 East Donegan, Seguin, Texas.

Send comments to The Honorable James Sagebiel, Guadalupe County Judge, 415 East Donegan, Seguin, Texas 78155.

Texas	Harris County and Incorporated Areas.	Clear Creek	Approximately 4,300 feet upstream of I–45/75.	+13	+14
			Just upstream of Edgewood Drive	+24	+26
			Approximately 1,000 feet upstream of Mykawa Road.	+48	+47
			Approximately 800 feet upstream of South Freeway.	+57	+58
		Tributary 10.08 to Clear Creek.	Just downstream of I–45/75	+11	+12
			Approximately 850 feet downstream of Forest Park Cemetery Road.	+12	+13

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Turkey Creek	Approximately 2,000 feet upstream of Beamer Road.	+27	+28
		Halls Road Ditch	Approximately 1,600 feet upstream of Dixie Farm Road.	+28	+29
	Brazoria County and Incorporated Areas.	Clear Creek	Just upstream of Country Club Drive	+38	+39
			Approximately 1,000 feet upstream of Mykawa Road.	+48	+47
			Approximately 800 feet upstream of South Freeway.	+57	+58
		Chigger Creek	Just upstream of State Highway 35	#1	++39
			Just downstream of Atchison Topeka & Santa Fe Railway.	None	++41
		Chigger Creek Bypass	At divergence from Chigger Creek	None	++40
		Cowart Creek	Just upstream of FM 2351	None	++33
			Just upstream of State Highway 35	None	++44
			Just upstream of County Road 827	None	++55
		Marys Creek	Approximately 200 feet upstream of FM 518.	+42	++41
			Just upstream of State Highway 35	+49	++48
			Approximately 2,500 feet upstream of FM 1128.	+54	++55
			Just downstream of Old Chocolate Bayou Road.	+55	None
		Hickory Slough	Just downstream of Old Alvin Road	None	++45
			Just downstream of Garden Road (County Road 109).	None	++51
			Approximately 2,000 feet upstream of Cullen Boulevard (FM 518).	None	++55
		Marys Creek Bypass	Just upstream of Brazoria/Galveston County boundary.	+32	++29
			Approximately 3,500 feet downstream of County Road 963.	+38	++37
	Fort Bend County and Incorporated Areas.	Clear Creek	Just downstream of Missouri Pacific Railroad.	+65	+63
			Just downstream of Roven Road	+69	+70
	League City (City), Galveston and Harris Counties.	Clear Creek	Approximately 4,300 feet upstream of I-45/75.	+13	+14
		Unnamed Tributary to Clear Creek.	At confluence with Clear Creek	+13	+14
			Approximately 800 feet upstream of Parker Road.	+14	+14
		Magnolia Creek	At confluence with Clear Creek	+14	+16
			Approximately 500 feet upstream of FM 518.	+15	+16
	Friendswood (City), Galveston and Harris Counties.	Clear Creek	Just downstream of Whispering Pines Avenue.	+20	+22
			Just upstream of Edgewood Drive	+24	+26
		Chigger Creek	Just upstream of confluence with Clear Creek.	+15	+17
			Just downstream of Windwood Drive	+28	++30
			Just downstream of Saint Cloud Drive	+36	++34
		Chigger Creek Bypass	At confluence with Chigger Creek	None	++32
		Cowart Creek	At confluence with Clear Creek	+19	+21
		Cedar Gully	At confluence with Clear Creek	+22	+24
			Just downstream of Blackhawk Boulevard	+22	+24
		Marys Creek	At confluence with Clear Creek	+23	+24
			Just upstream of Winding Road	+25	+28
		Turkey Creek	At confluence with Clear Creek	+26	+28
		Tributary 0.16 to Turkey Creek.	At confluence with Turkey Creek	+26	+28
			Approximately 2,400 feet upstream of confluence with Turkey Creek.	+27	+28
		Halls Road Ditch	At confluence with Clear Creek	+27	+29

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
+ NGVD—1973 Releveling.					
++ NGVD—1978 Releveling.					

Maps are available for inspection at the Map Repository, c/o Ms. Lupa Xamora, Permit Department, Harris County Engineering Division, 9900 Northwest Freeway, Suite 103, Houston, Texas 77002.

Send comments to The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Houston, Texas 77002.

Maps are available for inspection at the Map Repository, c/o Mr. Bob Williams, City Engineering Building, City of League City, 300 West Walker, League City, Texas 77573.

Send comments to The Honorable Tommy Frankovich, Mayor, City of League City, 300 West Walker Street, League City, Texas 77573.

Maps are available for inspection at the Map Repository, Public Works Building, City of Friendswood, 1306 Deepwood Drive, Friendswood, Texas.

Send comments to The Honorable Harold Whitaker, Mayor, City of Friendswood, 910 South Friendswood, Friendswood, Texas 77546–3291.

Maps are available for inspection at the City of Pearland Permits Department, City Hall, 3519 Liberty Drive, Pearland, Texas.

Send comments to The Honorable Tom Reid, Mayor, City of Pearland, 3519 Liberty Drive, Pearland, Texas 77581.

Maps are available for inspection at the Map Repository, City of Brookside Village City Hall, 6243 Brookside Road, Brookside Village, Texas.

Send comments to The Honorable George Carter, Mayor, City of Brookside Village, 6243 Brookside Road, Brookside Village, Texas 77581.

Maps are available for inspection at the Map Repository, c/o Mr. Mike Loomis, Floodplain Group, City of Houston, P.O. Box 1562, Houston, Texas 77251–1562.

Send comments to The Honorable Bob Lanier, Mayor, City of Houston, P.O. Box 1562, Houston, Texas 77251–1562.

Maps are available for inspection at the Map Repository, Brazoria County Courthouse, 111 East Locust Street, Angleton, Texas.

Send comments to The Honorable John Willy, Brazoria County Judge, Brazoria County Courthouse, 111 East Locust Street, Angleton, Texas 77515.

Maps are available for inspection at the Map Repository, County Engineer's Office, Fort Bend County, 1124 Blume Road, Rosenberg, Texas.

Send comments to The Honorable Michael D. Rozell, Fort Bend County Judge, 301 Jackson Street, Suite 719, Richmond, Texas 77469.

Maps are available for inspection at the Map Repository, c/o Mr. Jim Williams, Director of Community Development, City of Webster, P.O. Box 57130, Webster, Texas 77598–7130.

Send comments to The Honorable Floyd Myers, Mayor, City of Webster, P.O. Box 57130, Webster, Texas 77598–7130.

Texas	Henderson County and Incorporated Areas.	Cedar Creek Lake	Along shoreline of Cedar Creek Lane	None	*323

Maps are available for inspection at the City of Payne Springs Community Center, Highway 198, Payne Springs, Texas.

Send comments to The Honorable Lloyd Durst, Mayor, City of Payne Springs, City Hall, P.O. Box 1719, Payne Springs, Texas 75147.

Maps are available for inspection at the City of Tool City Hall, Highway 274, Tool, Texas.

Send comments to The Honorable A.J. Phillips, Mayor, City of Tool, City Hall, P.O. Box 843, Tool, Texas 75143.

Maps are available for inspection at the City of Log Cabin City Hall, 14387 Alamo Road, Log Cabin, Texas.

Send comments to The Honorable Robert L. Ford, Mayor, City of Log Cabin, City Hall, 14387 Alamo Road, Log Cabin, Texas 75148.

Maps are available for inspection at the City of Caney City, City Hall, 15241 Barron Road, Caney City, Texas.

Send comments to The Honorable Joe Barron, Mayor, City of Caney City, City Hall, 15241 Barron Road, Caney City, Texas 75148.

Maps are available for inspection at the City of Seven Points City Hall, Highway 85, Seven Points, Texas.

Send comments to The Honorable Marion Hall, Mayor, City of Seven Points, City Hall, P.O. Box 43233, Seven Points, Texas 75143.

Maps are available for inspection at the City of Star Harbor City Hall, 99 Sunset Street, Malakoff, Texas.

Send comments to The Honorable Jack Ferguson, Mayor, City of Star Harbor, City Hall, P.O. Drawer 949, Malakoff, Texas 75148.

Maps are available for inspection at the Town of Enchanted Oaks Town Hall, 111 Deerwood, Mabank, Texas.

Send comments to The Honorable Ken Braswell, Mayor, Town of Enchanted Oaks, 190 First Oak, Mabank, Texas 75147.

Maps are available for inspection at the City of Gun Barrel City, City Hall, 1810 West Main, Gun Barrel City, Texas.

Send comments to The Honorable Joe Agnes, Mayor, City of Gun Barrel City, City Hall, 1810 West Main, Gun Barrel City, Texas 75147.

Maps are available for inspection at 102 East Tyler Avenue, Athens, Texas.

Send comments to The Honorable Tommy Smith, Henderson County Judge, County Courthouse Annex, 101 East Tyler Avenue, Athens, Texas 75751.

Texas	Midland County Unincorported Area.	Monahans Draw	Approximately 2.1 miles downstream of County Road 1160.	None	*2,694
			Approximately 4,300 feet upstream of Tower Road.	*2,754	*2,753
		Monahans Draw (Near Ector County Boundary).	Approximately 1,000 feet downstream of Ector-Midland County boundary.	None	*2,833
			At Ector-Midland County boundary	None	*2,834

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Maps are available for inspection at the Midland County Engineer's Office, 2145 East Highway 80, Midland, Texas. Send comments to The Honorable Jeff Norwood, Midland County Judge, County Courthouse, 200 West Wall, Midland, Texas 79701.					
Texas	Victoria County (Unincorporated Areas).	Coleto Creek	Just upstream of FM 466	*66	*66
			Approximately 1.1 miles upstream of Southern Pacific Railroad.	*90	*86
		Whispering Creek	Approximately 830 feet upstream of John Stockbauer Drive.	*112	*111
			Approximately 3,600 feet upstream of Loop 463.	*119	*118
Maps are available for inspection at the Victoria County Floodplain Administration, 2805A North Navarro, Victoria, Texas. Send comments to The Honorable Helen R. Walker, Victoria County Judge, 115 North Bridge, Room 127, Victoria, Texas 77901.					

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance")

Dated: March 20, 1998.

Michael J. Armstrong,

Associate Director for Mitigation.

[FR Doc. 98–8076 Filed 3–27–98; 8:45 am]

BILLING CODE 6718–04–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE80

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Holocarpha macradenia (Santa Cruz tarplant)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes threatened status pursuant to the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*), for *Holocarpha macradenia* (Santa Cruz tarplant). It is threatened by alteration and destruction of habitat due to historical and ongoing urban and commercial development, habitat alteration due to cattle grazing, limited success of seed transplant populations, and competition from non-native plants. This proposed rule, if made final, would extend the Act's protection to this plant. The Service seeks data and comments from the public on this proposed rule.

DATES: Comments from all interested parties must be received by May 29, 1998. Public hearing requests must be received by May 14, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Listing and Recovery, Ventura Fish and Wildlife Office (see **ADDRESSES** section) (telephone number 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Holocarpha macradenia (Santa Cruz tarplant) was first recognized by Augustin-Pyramus de Candolle, who published the name *Hemizonia macradenia* in 1836 (Ferris 1960). In 1897, E. L. Greene referred the species to the genus *Holocarpha* with publication of the new combination *Holocarpha macradenia* (DC.) E. Greene (Ferris 1960). This name has continued to be recognized in the most recent treatment for the genus (Keil 1993).

Holocarpha macradenia, an aromatic annual herb in the aster (Asteraceae) family, is one of only four species of *Holocarpha*, all of which are restricted to California. The genus name is derived from the Greek *holos* for whole and *karphos* for chaff, referring to the scales found among the florets on the receptacle (the structure that supports the florets in the daisy-like flower head). The plant is rigid with lateral branches that arise to the height of the main stem which is 1 to 5 decimeters (dm) (4 to 20 inches (in)) tall. The lower leaves are broadly linear and up to 12 centimeters (cm) (5 in) long; the upper leaves are smaller, with rolled back margins, and are truncated by a distinctive craterform gland. The yellow flower head is surrounded from beneath by bracts that each have about 25 stout gland-tipped projections (Keil 1993). *Holocarpha macradenia* is distinguished from other members of the genus by its numerous ray flowers and its black anthers.

Historically, habitat for *Holocarpha macradenia* consisted of grasslands and prairies found on coastal terraces below 100 meters (m) (330 feet (ft)) in elevation, from Monterey County north to Marin County. In the Santa Cruz area, the gently sloping terrace platforms are separated by steep-sided "gulches," whereas in the Watsonville area (Monterey County) and on the east side of San Francisco Bay, the terraces are more extensively dissected, and *Holocarpha macradenia* populations occur on alluvium derived from the terrace deposits (Palmer 1986). The soils are typically sandy clay soils; the clay component of these soils holds moisture long into the growing season. The coastal prairie habitat, found from Monterey Bay and northward, is becoming increasingly fragmented and restricted in distribution. Historically, four major factors contributed to changes in the distribution and composition of coastal prairies—the introduction of highly competitive, non-native species; an increase in grazing pressures; the elimination of annual fires; and cultivation (Heady et al.1988).

Santa Cruz tarplant is most frequently associated with grasses; non-native grasses include wild oats (*Avena fatua*), Mediterranean barley (*Hordeum hystrix*), and bromes (*Bromus* sp.). Native associates include needlegrass (*Nassela* sp.), California oatgrass (*Danthonia californica*), and herbaceous species, including other tarplants (*Hemizonia* sp.). At some locations, the plant is found with species of concern, including Gairdner's yampah

(*Perideridia gairdneri*), San Francisco popcorn flower (*Plagiobothrys diffusus*), Santa Cruz clover (*Trifolium buckwestiorum*), and the Ohlone tiger beetle (*Cicindela ohlone*) (California Natural Diversity Data Base (CNDDB) 1997).

Historically, *Holocarpha macradenia* was known from "low dry fields about San Francisco Bay" (Jepson 1925). Around the San Francisco Bay, herbarium collections were made from Tamalipas in Marin County in 1934; from near Berkeley, Oakland, and San Lorenzo in Alameda County as early as 1894; and from Pinole in Contra Costa County (CNDDB 1997, Specimen Management System for California Herbaria (SMASCH) 1997). All of the native San Francisco Bay area populations have been extirpated; the last remaining native population, known as the Pinole Vista population, consisting of 10,000 plants, was eliminated in 1993 by a commercial development (California Department of Fish and Game (CDFG) 1997).

By 1959, Munz (1959) also noted it from Santa Cruz County, but added that the plant was possibly extinct. However, numerous collections were made from the Monterey Bay area in Santa Cruz County in the late 1950s and early 1960s. In 1966 and 1969, Hoover made the first collections in northern Monterey County, just south of the Santa Cruz County line (SMASCH 1997). Additional populations were found in Monterey County in the subsequent decades, although the lack of specific locational information on herbarium labels makes it difficult to determine exactly how many populations occurred there. According to CNDDB, nine populations in Santa Cruz and Monterey counties have been extirpated by development (CDFG 1993). Most recently, in 1993, a population in Watsonville (known as the Anna Street site) was destroyed during construction of office buildings and a parking lot (CDFG 1995a).

Holocarpha macradenia is currently known from a total of 18 populations; 12 of these are remaining native populations, and 6 are a result of experimental seedings. Six of the native populations occur around the city of Santa Cruz. The names of the six populations are given here, followed by the population size and (in parentheses), the year of the most recent survey—Graham Hill Road, 12,000 (1994); Twin Lakes, 0 (1997); Arana Gulch, 20,000 (1997); O'Neill/Tan, 2 (1993)/0 (1997); Winkle, 0 (1994); Fairway, 1,500 (1993).

The remaining six native populations occur around the city of Watsonville, scattered from Watsonville Airport to Hall Road, eight kilometers (km) (five miles (mi)) to the south-southeast. The names of the six populations are given here, followed by the population size and (in parentheses) the year of the most recent survey—Watsonville Airport, 240,000 (1994); Harkins Slough, 15,000 (1993); Apple Hill, 700 (1995); Struve Slough, 1 (1994); Spring Hills Golf Course, 4,000 (1990); Porter Ranch, 3,200 (1993).

The other six extant populations of *Holocarpha macradenia* are a result of experimental seed transplants in Wildcat Regional Park in the east San Francisco Bay area. The names of the six populations are given here, followed by the population size; surveys were most recently completed in 1997—Big Belgum, 148; Big Belgum West, 51; Upper Belgum, 22; Mezue, 5,000'7,000; Fowler, 22; Upper Havey, 17 (Olsen et al. 1997).

Holocarpha macradenia is threatened primarily by historic and current habitat alteration and destruction caused by residential development. Destruction of habitat may also result from recreational development, airport expansion, and agriculture. Even where occupied habitat has been set aside in preserves, conservation easements, and open spaces, the plant suffers secondary impacts from that development, such as casual use by residents, children, and pets, the inadvertent introduction of non-native species into tarplant habitat, and changes in hydrology resulting from adjacent residential use. Santa Cruz tarplant is also threatened by competition with non-native species including a variety of grass species, French broom (*Genista monspessulana*), eucalyptus (*Eucalyptus* sp.), acacia (*Acacia decurrens, A. melanoxylon*), and artichoke thistle (*Cynara cardunculus*) that are favored by historic disturbances such as cattle grazing. This species is also threatened by naturally occurring events due to the small numbers of individuals and limited area occupied by many of the populations.

Previous Federal Action

Federal action on this plant began when the Secretary of the Smithsonian Institution, as directed by section 12 of the Act, prepared a report on those native U.S. plants considered to be endangered, threatened, or extinct in the United States. This report (House Doc. No. 94–51), was presented to Congress on January 9, 1975, and included *Holocarpha macradenia* as endangered. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act and of the Service's intention thereby to review the status of the plant taxa named therein. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Holocarpha macradenia* was included in the June 16, 1976 **Federal Register** document.

In 1978, amendments to the Act required that all proposals over two years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. Subsequently, on December 10, 1979, the Service published a notice (44 FR 70796) of the withdrawal of the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480). This notice included *Holocarpha macradenia* as a category 1 candidate (species for which data in the Service's possession was sufficient to support proposals for listing).

On February 15, 1983, the Service published a notice (48 FR 6752) of its prior finding that the listing of *Holocarpha macradenia* was warranted but precluded in accordance with section 4(b)(3)(B)(iii) of the Act as amended in 1982. Pursuant to section 4(b)(3)(C)(i) of the Act, this finding must be recycled annually, until the species is either proposed for listing, or the petitioned action is found to be not warranted. Each October from 1983 through 1990 further findings were made that the listing of *Holocarpha macradenia* was warranted, but that the listing of this species was precluded by other pending proposals of higher priority.

Holocarpha macradenia continued to be included as a category 1 candidate in plant notices of review published September 27, 1985 (50 FR 39526), February 1, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). Upon publication of the February 28, 1996 notice of review (61 FR 7596), the Service ceased using category designations and included *Holocarpha macradenia* as a candidate. Candidate species are those for which the Service has on file sufficient information on biological vulnerability and threats to support proposals to list them as threatened or endangered. The 1997 notice of review, published September 19 (62 FR 49398) retained *Holocarpha macradenia* as a candidate, with a listing priority of 2.

The processing of this proposed rule conforms with the Service's final listing priority guidance published in the **Federal Register** on December 5, 1996 (61 FR 64475), and extended on October 23, 1997 (62 FR 55268). The guidance clarified the order in which the Service processed rulemakings during fiscal year 1997. The guidance called for giving highest priority (Tier 1) to handling emergency situations, second highest priority (Tier 2) to resolving the conservation status of outstanding proposed listings, and third priority (Tier 3) to new proposals to add species to the lists of threatened and endangered plants and animals. This proposed rule constitutes a Tier 3 action. The 1997 listing priority guidance remains in effect pending the publication of the Final Listing Priority Guidance for FY 1998/FY 1999.

Summary of Factors Affecting the Species

Section 4 of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Holocarpha macradenia* are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Urbanization has been responsible for severely reducing the extent of coastal prairie habitat that supports *Holocarpha macradenia*. All native populations of *Holocarpha macradenia* have been extirpated from Alameda, Contra Costa, and Marin counties around the San Francisco Bay (CDFG 1997a). Habitat for the last naturally occurring population in the San Francisco Bay area, near Pinole in Contra Costa County, was converted to a shopping center in 1993 (CDFG 1997a, CNDDB 1997). The only populations that persist in this area are six populations that were transplanted as seed into Wildcat Canyon Regional Park in Contra Costa County.

Since *Holocarpha macradenia* was listed as endangered by the State of California in 1979, the (CDFG) has been tracking the status of its populations. Because locality information on historical collections is often general, it is difficult to assess the total number of historical populations. However, CDFG has determined that the plant has been extirpated from nine locations around the Monterey Bay since 1979 (CDFG 1993, CNDDB 1997). Most recently, a population at what was referred to as the Anna Street site in Watsonville was destroyed sometime after a 1992 survey, during construction of office buildings and a parking lot (CDFG 1995a, CNDDB 1997).

In the last four years, increasing concern over the loss of tarplant habitat and populations have led certain permitting agencies to require conservation of remaining habitat during review of development projects. Because of this, the rate of habitat destruction has been slowed. However, direct impacts and alteration through secondary effects of development threaten the remaining habitat and populations. In many cases, historical alteration of habitat has been exacerbated by current human activities. A detailed description of the 12 remaining native sites is given here. Because the six seed transplant sites in Contra Costa County are not sites where the plant was known to be native, the threats to those sites are discussed under "Factor E."

The Graham Hill Road site is owned by the Cowell Foundation. An Environmental Impact Report (EIR) was approved by the County of Santa Cruz in 1996 for a development that comprises 52 residences, a fire station, a common area, a park, and an equestrian facility and trails on a 170-acre parcel (Environmental Science Associates 1996). The developer has proposed to include 0.5 acre of occupied tarplant habitat and 10 acres of coastal prairie habitat within a 17-acre conservation easement. In addition to Santa Cruz tarplant, other species of concern occur here, including Gairdner's yampah, San Francisco popcorn flower, and Santa Cruz clover. In 1994, there were five colonies of tarplant, occupying less than one acre of habitat. One colony supported 10,000 individuals and the other four collectively supported 2,000 individuals. To date, the development has not proceeded because the developer has been unable to negotiate a necessary sewage treatment connection with the City of Scotts Valley. The property and attendant EIR are currently for sale. French broom has invaded the coastal prairie habitat and is considered a threat to all four of the plant species of concern, including Santa Cruz tarplant (Environmental Science Associates 1995). *Holocarpha macradenia* is threatened on this site by development, competition with non-native plants, and vulnerability to naturally occurring events due to the small extent of occupied habitat (also see Factor E).

The Twin Lakes site is owned by the California Department of Parks and Recreation (CDPR). The site has been fragmented by an access road for park vehicles and several hiking paths. The population occupies less than 1 acre and has declined as follows—120 individuals in 1986, fewer than 10 in 1994, 1 in 1996, and 0 in 1997. The decline has been attributed to competition from French broom and non-native grasses (CDFG 1995a; G. Gray, ecologist, CDPR, pers. comm. 1997). In the last three years, CDPR has made progress in removing broom from the site. They also have experimented with management actions that would enhance habitat for *Holocarpha macradenia* through mowing, raking, simulating cattle hoof action with wood blocks, and burning. The population, however, has continued to decline. In 1997, CDPR committed significant funding to continue with experimental management actions (G. Gray, pers. comm. 1997). *Holocarpha macradenia* is threatened on this site by competition with non-native plants, and vulnerability to naturally occurring events due to the small population size and small extent of occupied habitat (also see Factor E).

The Arana Gulch population is on a 63-acre parcel of land owned and managed by the City of Santa Cruz (City). In the late 1980s, the population comprised about 100,000 individuals. Grazing by cattle was terminated in 1988, and over the next few years, population sizes decreased due to competition with non-native grasses. In 1993, the population was down to 133 individuals, and in 1994, no individuals were seen. In 1994, the City acquired the parcel from a private landowner. The City entered into a Memorandum of Understanding (MOU) with CDFG in 1997 to focus on management actions that would enhance the four colonies, which cover approximately 5 acres within a 17-acre management area (CDFG 1997b). Management actions begun in 1995 included mowing, raking, hoeing, and mechanical scraping of the habitat. In 1997, when the population comprised about 20,000 individuals, the highest density of tarplant was on a portion of the habitat that had accidentally burned (K. Lyons, consultant, pers. comm. 1997). The City is proposing to construct a bicycle path that would bisect the management area (Brady and Associates, Inc. 1997). Direct impacts to occupied Santa Cruz tarplant habitat would be avoided, but secondary impacts associated with increased recreational use may make management more difficult. *Holocarpha macradenia*

is threatened on this site by development and competition with non-native plants (also see Factor E).

The O'Neill/Tan Ranch population straddles the boundary of two parcels.

The O'Neill Ranch property is owned by the County Redevelopment Agency (CRA). In 1996, the County approved development of the 100-acre property into a county park. The tarplant is located in the upper reaches of the park where past recreational use has consisted of occasional hiking. A park management plan is currently being developed, and will include the population of tarplant in a 15-acre conservation easement which is zoned for "passive recreation." The plan may recommend fencing around 1 acre of tarplant habitat in lieu of trying to restrict hikers to designated trails (S. Gilchrist, CRA, pers. comm. 1997). Although the site receives light use currently, development of the Tan property will allow easier access to a larger number of people. The County hopes to establish a cooperative management strategy with the developers to address management of this population. The size of the *Holocarpha macradenia* population has fluctuated since 1979 as follows—between 100 to 200 plants (1979); 0 (1984); 0 (1985); 170 (1986); 0 (1990); 170 (1991) and 2 (1993) (Brady and Associates 1995). Santa Cruz clover and Gairdner's yampah are two sensitive species that occur with the tarplant at this site.

The size of the *Holocarpha macradenia* population on the Tan parcel is difficult to determine, as historic surveys did not count individuals separately from those on the O'Neill parcel. However, because the total number of individuals in the entire population has never been larger than 200, it can be inferred that the Tan parcel supported only a portion of these. In 1996, only one tarplant individual was seen (Val Haley, consultant, in litt. 1997); in 1997 no individuals were seen (K. Lyons, pers. comm. 1997). The coastal prairie habitat on this parcel also supports Gairdner's yampah and Santa Cruz clover, both species of concern.

The 106-acre Tan property is privately owned, and was approved for development of 28 residential units in 1997. The habitat mitigation plan for the development calls for the inclusion of approximately 0.4 acres that support tarplant in a 10.5-acre conservation parcel that will be managed by the homeowner's association (HRG 1996). The plan also includes management prescriptions for the conservation parcel, including mowing, weed control, fencing, and removal of invasive non-native plants. Invasive non-native plants in the vicinity of the tarplant include French broom, rattlesnake grass (*Briza* sp.), and eucalyptus (HRG 1996). *Holocarpha macradenia* is threatened on the combined O'Neill/Tan site by development, competition with non-native plants, and vulnerability to naturally occurring events due to the small population size and small extent of occupied habitat (also see Factor E).

The Winkle Avenue site is privately owned. Part of the tarplant population at this site was destroyed by two phases of a residential development in 1986, and part of the remaining parcel was placed in a "temporary open space easement" (Strelow Consulting 1997). However, the remaining 58-acre parcel is now also being proposed for development of 21 residential units (Parsons Engineering Science, Inc. 1997). Approval by the County of Santa Cruz is pending; the planning department will recommend that the development be limited to 10 residential units, with the remaining 11 lots to be placed in a preservation easement (K. Tschantz, County of Santa Cruz Planning Department, pers. comm. 1997, CDFG in litt. 1997). In 1993, the tarplant population consisted of approximately 100 plants covering 174 square feet (Parsons Engineering Science, Inc 1997); in 1994, none were seen (CDFG 1995). In addition to development, the population on this site has been subject to competition with French broom and non-native grasses. This site also supports populations of the Ohlone tiger beetle and Gairdner's yampah, both species of concern. *Holocarpha macradenia* is threatened on this site by development, competition with non-native plants, and vulnerability to naturally occurring events due to the small population size and small extent of occupied habitat (also see Factor E).

The Fairway Drive site is privately owned. In 1989, the 30-acre parcel supported a population of approximately 5,000 plants on less than one acre. At the time, the site was considered a "well preserved fragment of native grassland" that supported native bunchgrasses (California oatgrass and purple needlegrass (*Nassella pulchra*)) as well as several species of concern, including Gairdner's yampah and San Francisco popcorn flower (CNDDB 1997). Grazing by horses ceased in that year. In 1993, the population was approximately 1,500 plants (CDFG 1995a, Greening Associates 1995); the decline has been attributed to cessation of grazing. Several woody non-native species, including French broom, acacia, pampas grass (*Cortaderia jubata*), and eucalyptus (*Eucalyptus globulus*), have invaded the grasslands and are rapidly spreading. In 1996, the County approved a lot split into four parcels, with the condition that the coastal terrace prairie habitat be placed in a preservation easement of approximately 15 acres, and a management plan be developed and implemented (K. Tschantz, pers. comm. 1997). *Holocarpha macradenia* is threatened on this site by competition with non-native plants and by its vulnerability to naturally occurring events due to small population size and small extent of occupied habitat (also see Factor E).

Around the city of Watsonville, six native populations of Santa Cruz tarplant are scattered from Watsonville Airport to Hall Road, eight kilometers (km) (five mi) to the south-southeast. The Watsonville Airport site, owned by the City of Watsonville, supports the largest population of Santa Cruz tarplant. In 1993, the population was estimated to be 459,000 plants; in 1994, it was estimated to be 240,000 plants (CNDDB 1997). Portions of the 37-acre site are grazed, and other portions are mowed several times between late spring and late summer. This management appears to have benefitted the Santa Cruz tarplant by reducing competition from non-native species. In 1994, the City released an initial study for proposed clay mining and a 20-year airport expansion plan. Both activities would potentially reduce tarplant habitat (Denise Duffy & Associates 1994). Since then, the proposal to mine clay has been removed from consideration due to permitting complications. CDFG has been working with City representatives to formalize an agreement to use ongoing management activities to enhance tarplant habitat, but a final agreement has not been reached. CDFG has also been working with City representatives to develop a strategy to phase airport expansion over a number of years so that loss of tarplant habitat would be minimized. *Holocarpha macradenia* is threatened on this site by development and competition with non-native plants (also see Factor E).

The Harkins Slough site is privately owned. In 1993, the population consisted of about 15,000 plants in two colonies, one covering 1 acre, and the other 0.1 acre in size. Cattle grazing was discontinued in 1990. Current uses of the property include fava bean production. Due to limited access to the property, the current status of the population is unknown. In anticipation of developing residences and a golf course, the owners requested that the

property be annexed to the City of Watsonville in 1997. However, due to the public's concern over the loss of prime agricultural land in the area, the city council turned down the request. In 1997, CDFG approached the owners with a proposal to assist in conservation efforts; no agreements have been reached yet. *Holocarpha macradenia* is threatened on this site by vulnerability to naturally occurring events due to the small population size and small extent of occupied habitat (see Factor E) and possibly by development.

The Apple Hill site is owned by the California Department of Transportation (CALTRANS). The population used to comprise three colonies, but two were extirpated by construction of a housing development on the adjacent private property. The remaining colony occurs in a strip between the development and Highway 152; the strip has been used as a play area for local children and pets, a repository for yard waste, and as a short-cut to the local market (CDFG 1994; G. Smith, resource ecologist, CDPR, pers. comm 1997). CALTRANS had proposed moving a fence along the highway such that it would offer additional protection to the remaining colony. However, due to internal reorganization and changes in staffing within CALTRANS, this action has not been taken yet (G. Ruggerone, CALTRANS, pers. comm. 1997). The population size has fluctuated between 4,000 in 1986 down to 81 in 1994. In the most recent count in 1995, the population supported 700 individuals (CNDDB 1997). *Holocarpha macradenia* is threatened on this site by development and by vulnerability to naturally occurring events due to the small population size and small extent of occupied habitat (also see Factor E).

The Struve Slough site is privately owned. In the late 1980s, it supported one of the largest populations of Santa Cruz tarplant, occupying 4 acres and comprising 400,000 plants in 1989 (CDFG 1995). However, cattle grazing on the site was terminated in 1989, and since then, the population size has dropped precipitously. The site is now dominated by non-native wild oat (*Avena* sp.), prickly lettuce (*Picrus echioides*), and fennel (*Foeniculum vulgare*), which outcompete the tarplant (CDFG 1995). By 1993 and 1994, only one tarplant individual was observed. The Santa Cruz long-toed salamander (*Ambystoma macrodactylum croceum*), a federally endangered species, has also been documented from this site. An EIR for a housing development at this site was approved by the City of Watsonville in 1992. However, a requirement to add a fire road, which would cross regulated wetlands, has held up the development. A revised EIR is due to be released soon. The CDFG has expressed an interest in enlisting the property owners in conservation efforts, but no agreements have yet been reached (D. Hillyard, plant ecologist, CDFG, pers. comm. 1997). *Holocarpha macradenia* is threatened on this site by development, competition with non-native plants, and vulnerability to naturally occurring events due to the small population size and small extent of occupied habitat (also see Factor E).

The Spring Hills Golf Course (Course) site is privately owned. In 1989, Santa Cruz tarplant was observed growing in five separate colonies scattered over 13 acres in unlandscaped patches between the course's fairways. The distribution of the colonies suggests that additional habitat for the tarplant was altered by conversion to fairway. In 1989 and 1990, the largest colony supported 2,000 to 3,000 plants, and the other four colonies supported between 100 and 400 plants each (CNDDB 1997). The tarplant was last observed at this site in 1995; at that time, no population size estimates were made, but it appeared that all colonies were still present (B. Davilla, pers. comm. 1997). In 1997, CDFG approached representatives of the Course and expressed an interest in enlisting them in conservation efforts. To date, however, no agreements have been made (D. Hillyard, pers. comm. 1997). The threats to *Holocarpha macradenia* on this site are uncertain.

The Porter Ranch site is privately owned. Taylor noted that this site is unusual in that the *Holocarpha macradenia* population is primarily in the bottom of a small canyon, rather than on the adjacent terrace or upper slope (Taylor 1990). The population is scattered over approximately 10 acres. Between 1984 and 1993, population sizes fluctuated between 1,500 plants in 1984 and 43,000 in 1989 (CNDDB 1997). The most recent population estimate in 1993 was 3,200 plants. The site is grazed by cattle; apparently different patches of *Holocarpha macradenia* have been grazed with varying intensities (M. Silverstein, Elkhorn Slough Foundation, pers. comm. 1997). Morgan noted that there were fewer than 100 plants in 1996 within a cattle exclosure where there had previously been many more plants (R. Morgan, pers. comm. 1997). The owners are interested in developing management plans in conjunction with The Nature Conservancy that would address appropriate grazing levels to benefit the tarplant (CDFG 1994, M. Silverstein, pers. comm. 1997). The threats to *Holocarpha macradenia* on this site are uncertain.

In summary, development, with its associated effects, is a primary threat to *Holocarpha macradenia*. Six of the 12 remaining native populations are on privately owned lands that are currently or anticipated to be proposed for urban development (Graham Hill Road, the Tan portion of O'Neill/Tan, Winkle Avenue, Fairway Drive, Harkins Slough, and Struve Slough); 1 is on a site slated for a phased, 20-year airport expansion (Watsonville Airport); and 3 are subject to secondary effects of adjacent residential development (Arana Gulch, Twin Lakes, Apple Hill). Although 7 of the 12 sites include plans for conservation of *Holocarpha macradenia*, either through development-related mitigation, or by virtue of being on City, County, or State agency lands, the successful implementation of these plans has not been demonstrated. In particular, the size and quality of conservation areas and management actions prescribed through the environmental review process (see Factor D) may not be biologically adequate to meet the goal of long-term conservation of the species. In addition, conservation areas where *Holocarpha macradenia* populations are small in numbers, small in area, whose habitat is degraded, or that continue to receive secondary effects of adjacent human activities, become more vulnerable to extirpation from naturally occurring events (see Factor E).

B. Overuse for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a problem for this species.

C. Disease or Predation.

Disease is not known to be a problem for this species. Predation by cattle, livestock, or other wildlife species is not known to occur, and is unlikely given that the oil glands of mature *Holocarpha macradenia* would make it unpalatable. Whether very young plants are subject to predation prior to maturation of oil glands is unknown.

Grazing by cattle has altered habitat for *Holocarpha macradenia* at a number of sites (Arana Gulch, O'Neill/Tan, Watsonville Airport, Harkins Slough, Struve Slough, Porter Ranch, and all six seed transplant populations in Wildcat Regional Park). Prior to the spread of non-native annual grasses in the valleys and foothills of California, the openings between perennial grasses in grassland and oak woodland communities were probably occupied by native herbs (Barbour et al. 1993). Grazing alters the species composition of grasslands in several ways. The hooves of cattle create

sufficient soil disturbance to allow the establishment of non-native species, intensive grazing eliminates native species through selective foraging and favors the establishment of non-native species, and cattle act as dispersal vectors for non-native species (Heady 1977; Sauer 1988, Willoughby 1986). Once non-native species become established, they compete with native herbs and grasses for water, nutrients, and light. Because non-native grasses are prolific seeders, they continue to increase in abundance at the expense of the native taxa.

Once habitat for *Holocarpha macradenia* has been altered by grazing and the proliferation of non-native plants, continued grazing may be deleterious or beneficial to the persistence of the species. The effects of continued grazing on *Holocarpha macradenia* depend on many factors, including the current condition of the site, the timing, and the amount of grazing. In some cases, light to moderate grazing will remove sufficient biomass of non-native grasses to allow *Holocarpha macradenia* to persist (CDFG 1995a, CDFG 1995b). For example, a combination of mowing and grazing has probably favored the persistence of *Holocarpha macradenia* at the Watsonville Airport site. The decline of *Holocarpha macradenia* on the Struve Slough site has been attributed to the cessation of grazing (CDFG 1995a, Taylor 1990). On the other hand, heavy grazing is most likely responsible for the decline or restriction in *Holocarpha macradenia* population sizes at the Arana Gulch, Tan, and portions of the Porter Ranch sites (CNDDB 1997, CDFG 1995a), as well as one of the seed transplant populations (Big Belgum) in Wildcat Canyon Regional Park (CDFG 1995b).

Because cattle grazing has frequently resulted in increasing the abundance of non-native species, competition with these non-natives is typically a problem. Additional discussion on this issue is found under Factor E of this rule.

D. The Inadequacy of Existing Regulatory Mechanisms

The CDFG Commission listed *Holocarpha macradenia* as an endangered species in 1979 under the California Native Plant Protection Act (CNPPA) (Div. 2, chapter 10 sec. 1900 et seq. of the CDFG Code) and the California Endangered Species Act (CESA) (Division 3, Chapter 1.5 sec. 2050 et seq.). Although the "take" of State-listed plants has long been prohibited under the CNPPA, Division 2, Chapter 10, section 1908 and the CESA, Division 3, Chapter 1.5, section 2080, in the past these statutes have not provided adequate protection for such plants from the impacts of habitat modification and land use change. For example, under CNPPA, after CDFG notifies a landowner that a State-listed plant grows on his or her property, the statute requires only that the landowner notify the agency "at least 10 days in advance of changing the land use to allow salvage of such plant" (CNPPA, Division, 2, Chapter 10, section 1913). Under recent amendments to CESA, a permit under section 2081(b) of the CDFG Code is required to "take" State listed species incidental to otherwise lawful activities. The amendments require that impacts to the species be fully mitigated. However these new requirements have not been tested and several years will be required to evaluate their effectiveness.

The California Environmental Quality Act (CEQA) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to "reduce the number or restrict the range of a rare or endangered plant or animal." Species that are eligible for State listing as rare, threatened, or endangered, but are not so listed, are given the same protection as those species that are officially listed with the State or Federal governments. Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of endangered species. Protection of listed species through CEQA is, therefore, dependent upon the discretion of the agency involved.

The County of Santa Cruz recently revised its Local Coastal Program and General Plan (Santa Cruz County 1994). Under this plan, "grasslands in the coastal zone" are identified as one of a number of Sensitive Habitats. Uses allowed within Sensitive Habitat areas are restricted to those that are dependent on the habitat's resources unless other uses are "(a) consistent with protection policies and serve a specific purpose beneficial to the public; (b) it is determined through environmental review that any adverse impacts on the resource will be completely mitigated and that there is no feasible less-damaging alternative; and (c) legally necessary to allow a reasonable economic use of the land, and there is no feasible less-damaging alternative." (Santa Cruz County 1994). The County has attempted to protect Santa Cruz tarplant during review of proposals for development that fall under their purview by establishing conservation easements volunteered by the project applicant, or preservation easements requested of the applicant by the County. To date, these include development projects at the following sites—Graham Hill Road, O'Neill, Tan, Winkle, and Fairway Drive. These easements typically set aside all or most of the occupied habitat of *Holocarpha macradenia* and provide for implementation of management plans for the attendant coastal prairie habitat. Despite these efforts, however, the easements cover small remnant acreages that represent only a fragment of the original coastal prairie habitat that used to occur in the region, and intensive management will be needed to support *Holocarpha macradenia* on these sites.

Since *Holocarpha macradenia* was listed by the State in 1979, CDFG has been tracking the status of its populations. Concern increased in the late 1980s and early 1990s when it became apparent that native populations were being destroyed by development, both in the San Francisco Bay area and the Monterey Bay area. In 1993 and 1995, CDFG hosted three *Holocarpha macradenia* recovery workshops to review the status of the species and attendant populations, and to identify needed actions to conserve the species. As a result of these workshops, CDFG developed a MOU with the City of Santa Cruz addressing management of the population at Arana Gulch, initiated discussion with the City of Watsonville regarding the development of a MOU for management of the Watsonville Airport site, provided funding for management of several populations (including those at Arana Gulch and at Wildcat Regional Park), and developed a conservation plan for the species, including a list of four priority sites to target for conservation. Efforts to enlist the four property owners to conserve the species are pending.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Three additional factors threaten the continued existence of *Holocarpha macradenia*—limited success of transplant efforts, competition with

non-native plants, and extinction caused by naturally occurring events.

In Factor A above, detailed accounts were given of the 12 remaining native populations of *Holocarpha macradenia*. The other six extant populations of *Holocarpha macradenia* are a result of experimental seed transplants. A brief summary of these transplanted populations is warranted. In 1911, Jepson referred to *Holocarpha macradenia* as being "abundant" in west Berkeley and Oakland (Havlik 1986). Due to loss of habitat to urbanization, Munz (1959) considered the taxon "possibly extinct." Therefore, when several populations were found near Pinole and Richmond in Contra Costa County in the late 1970s and early 1980s, botanists placed a high priority on establishing additional populations to forestall extinction. Experiments were carried out to establish new populations by seeding what was thought to be appropriate habitat (Havlik 1986). Most of the transplants were done at Wildcat Canyon Regional Park, which straddles Alameda and Contra Costa counties, but several transplants were on lands owned and managed by East Bay Municipal Utility District (EBMUD).

Havlik (1989) reviewed results from the first seven years of seed transplants and discussed how habitat characteristics, including soil type, grazing pressure (cattle), and occurrence within the coastal fog belt, may have affected transplant success. Initial data suggested that populations exposed to moderate grazing pressure were larger than those exposed to low grazing pressure. From 1982 to 1986, a total of 22 seed transplants was attempted within Wildcat Regional Park and on EBMUD land. Most of the sites have been monitored annually since then. In 1989, 3 sites supported over 3,000 plants; two had over 1,000 plants; eleven had over 100 plants; 2 had over 10 plants; and 4 had no plants.

By 1993, 1 site (referred to as Mezue) supported a population of 6,400 plants; 4 had fewer than 300 plants; 2 had fewer than 100 plants; 10 had no plants; and 3 sites could not be relocated (CDFG 1994). By 1997, the Mezue site supported between 5,000 and 7,000 plants; 1 had fewer than 300 plants; 4 had fewer than 100 plants; and 7 had no plants. Most of the remaining sites were not checked since previous multiple-year monitoring indicated that plants had disappeared from those sites.

Although the information gathered from these seed transplant trials has been valuable for understanding the life history of the plant and how it responds to various types of management, the limited success of establishing viable populations means that these transplant sites have a limited value for maintaining the viability of the species compared to the native populations. The seeded populations of tarplant are threatened to some extent by competition with artichoke thistle and non-native grasses.

One of the most prevalent forms of habitat alteration occurring within the coastal prairie habitat of Santa Cruz tarplant is the conversion of the flora from one comprised primarily of native grasses to one comprised primarily of non-native grasses. As discussed in factors A and C above, the conversion of native habitats to grazing lands enhances the opportunity for non-native grasses to be introduced and disseminate into the surrounding areas. Because many non-native grasses germinate early and seed prolifically, they may quickly gain a competitive advantage over native grasses (Heady 1977, McClintock 1986). Field survey reports show that non-native grasses have become prevalent, and thus represent a potential threat, at the following sites for *Holocarpha macradenia*—Arana Gulch, Twin Lakes, Tan, Watsonville Airport, Harkins Slough, Struve Slough, Spring Hills, Porter (CNDDB 1997, Taylor 1990).

The Struve Slough site, which until 1989 supported one of the largest populations of Santa Cruz tarplant, is currently dominated by non-native species, primarily wild oat, prickly lettuce, and wild fennel. Before 1989, grazing by cattle had favored the presence of ryegrass (*Lolium multiflorum*) and quaking grass (*Briza maxima*) on the site; cattle grazing was removed in 1989. Although a seed bank for Santa Cruz tarplant still exists on the site, the plant has not been seen since 1994.

The seeded populations of tarplant are also threatened to some extent by competition with non-native species, particularly artichoke thistle and non-native grasses. This thistle, the wild variety of the edible artichoke, modifies habitat for the tarplant by virtue of its large size, its allelopathic properties (chemical inhibition of growth of other plants), and by creating shade (Kelley and Pepper, in press). Other weedy characteristics of the artichoke thistle include its ability to resprout vigorously from a perennial taproot, extended flowering, seed production, and germination seasons, and the ability to germinate and grow rapidly in a variety of environmental conditions (Kelley and Pepper, in press). Apparently, artichoke thistle was introduced to the area around Benicia, only a few miles north of the Regional Park, in the 1880s; by the 1930s, 70,000 acres in the hills around the east and north side of San Francisco Bay were infested with the artichoke thistle (Ball in Thomsen et al. 1986).

Starting in 1996, the Regional Park, with the County of Alameda, initiated an artichoke thistle removal program using herbicides. Although sites that support tarplant are a priority for artichoke thistle removal, the abundance of artichoke thistle in adjacent areas facilitates reestablishment into already treated areas.

Non-native grasses also occur with tarplant at the six seed transplant sites. All six sites are also grazed by cattle. If non-native grasses become too abundant, they outcompete the tarplant. Cattle grazing decreases the abundance of non-native grasses; however, at one of the sites (Big Belgum), an increase in cattle grazing was thought to be the cause of a declining tarplant population (CDFG 1995b).

French broom is another non-native species that threatens *Holocarpha macradenia*. French broom is very aggressive, spreads rapidly, and easily colonizes disturbed areas such as roadsides and recently cleared land. Like artichoke thistle, French broom can eventually form dense thickets that displace native vegetation (Habitat Restoration Group (HRG) n.d.). French broom occurs at the following sites that support *Holocarpha macradenia*—Arana Gulch, Graham Hill Road, Twin Lakes, Tan, and Fairway Drive (CDFG 1997, HRG 1996).

So much of the coastal prairie habitat that supports *Holocarpha macradenia* has been altered, fragmented, or destroyed that most of the remaining habitat supports only very small populations, both in numbers of individuals and in acreage. Species with few populations and individuals are vulnerable to the threat of naturally occurring events causing extinction in several ways. First, the loss of genetic diversity may decrease a species' ability to maintain fitness within the environment, often manifested in depressed reproductive vigor. Secondly, species with few populations or individuals may be subject to forces that affect their ability to complete their life cycle successfully. For example, the loss of pollinators may reduce successful seed set. Thirdly, random, natural events, such as storms, drought, or fire could destroy a significant percentage of a species' individuals or entire populations. Also, the restriction of certain populations to small sites increases their risk of extinction from naturally occurring events. Of the 12

native sites, the Watsonville Airport site is the largest, supporting 200,000 to 400,000 plants on 37 acres. The Struve Slough site formerly supported 400,000 individuals on 4 acres, but had declined to a single individual in 1994. The Spring Hills Golf Course site supports up to 3,500 plants on 13 acres. The Porter Ranch site used to support 43,000 plants on 10 acres, but the population had declined to fewer than 100 plants in 1996. The Arana Gulch site supported 20,000 plants on 5 acres in 1997. The remaining seven native sites support approximately 1 acre or less of occupied habitat; of these, at least two (Twin Lakes, Tan) had no plants in 1997. Of the 6 seed transplant sites in Wildcat Canyon Regional Park in the east San Francisco Bay area, 1 supported a population of 6,000 to 7,000 individuals, and the remaining 5 supported between 17 and 148 individuals. Olsen estimates that each of these sites covers 1 to 3 acres, and that the total area of all six sites is between 10 and 20 acres (B. Olsen, biologist, EBRPD, pers. comm. 1997).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this taxon in determining to propose this rule. Based on this evaluation, the preferred action is to list *Holocarpha macradenia* (Santa Cruz tarplant), as threatened. This species is likely to become endangered within the foreseeable future throughout all or a significant portion of its range due to habitat alteration and destruction resulting primarily from urban and commercial development, invasion of its habitat by non-native vegetation due to cattle grazing, limited success of seed transplant populations, competition with non-native plants, and vulnerability to naturally occurring events due to low numbers of individuals. Although a few of the remaining native populations are on City, County, or State-owned lands, most of them are on private lands. Conservation efforts to date have shown that this species may be maintained by applying intensive management techniques. These efforts will be most effective on sites where acreage of remaining habitat is large, support naturally large populations, and are secure from threats. Although conservation efforts have been prescribed as part of mitigation for a number of development projects, the small acreage, small population sizes, and physical proximity of threats lessen the chance that such efforts will lead to secure, self-sustaining populations at these sites. Therefore, the preferred action is to list *Holocarpha macradenia* as threatened. Critical habitat is not being proposed for *Holocarpha macradenia* for the reasons discussed below.

Critical Habitat

Critical habitat is defined in section 3(5)(A)of the Act as (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12(a)) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Critical habitat for Santa Cruz tarplant is determinable. Although additional information would be useful, sufficient information concerning the physical and biological features of the tarplant's habitat exists to determine critical habitat (CNDDB 1997, CDFG 1995a, CDFG 1995b, Palmer 1986).

Critical habitat can be designated for suitable, but unoccupied, habitat of listed species. There are no opportunities to do so for the Santa Cruz tarplant because sites where it historically occurred have all been rendered unsuitable. Sites where plants have been regularly seen, but not on the most recent inspection, are assumed to have viable seed banks, and cannot be considered "unoccupied." Similarly, because the six seed transplant populations on park land (owned by East Bay Regional Parks District) have been at best moderately successful, the Service is unable to conclude that these sites are suitable to the plant. The transplant sites thus are not appropriate for designation as critical habitat.

Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist—(i) the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species, or (ii) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat for the Santa Cruz tarplant is not prudent because it would provide no additional benefit to the species beyond that conferred by listing it as threatened. The basis for this conclusion, including the factors considered in weighing the benefits against the risks of designation, is provided below.

As discussed above, 8 out of 12 extant native populations occur predominantly on private land, and 4 are on City, County or State land. Because Santa Cruz tarplant is State-listed, activities occurring on these private and public lands are subject to State regulations. For populations that occur within Santa Cruz County outside of City limits (Graham Hill Road, O'Neill/Tan, Winkle, Fairway Drive, Harkins Slough, Struve Slough, Spring Hills Golf Course), activities are also subject to ordinances through the Local Coastal Program and General Plan. The Porter Ranch population is subject to ordinances through the County of Monterey. Because there is no Federal assistance to, or regulation of activities (i.e., a Federal nexus) on these privately owned sites, designation of critical habitat would provide no benefit to the Santa Cruz tarplant in addition to that provided by listing. Federal involvement, should it occur, would be identified without the designation of critical habitat because interagency coordination requirements (e.g. Fish and Wildlife Coordination Act and the Endangered Species Act) are already in place. Designating critical habitat would not create a management plan for the plant, establish goals for its recovery, nor directly affect areas not designated as critical habitat. Additionally, the designation of critical habitat, which does not affect private landowners, may distract these landowners from, or discourage their participation in State and local conservation programs. Landowner participation in these programs is essential to the long term conservation and recovery of the Santa Cruz tarplant. Designation of critical habitat on private land would therefore not merely provide no benefit to the tarplant, but would actually create a needless risk.

For the 4 native populations on City, County, or State lands, policies of the various agencies involved regarding protection and conservation of sensitive species apply. The Twin Lakes population is on park land owned by CDPR; the Arana Gulch population occurs on park land owned by the City of Santa Cruz. The Apple Hill

population occurs on land owned by CALTRANS. The Watsonville Airport population is owned by the City of Watsonville. In addition to these four populations, a portion of the O'Neill/Tan population occurs on park land owned by the County of Santa Cruz. All of these populations are currently recognized for conservation purposes by their managers, or progress is being made toward such recognition (as at Watsonville Airport). There is currently no Federal nexus at any of these sites. A Federal nexus could emerge at the airport if federally-funded construction is proposed, but the airport population's importance to the conservation of the species (it is the largest population in existence) assures that virtually any adverse effect at the airport would very likely jeopardize the continued existence of the Santa Cruz tarplant. Thus, designation of critical habitat at any of the publicly-owned sites would provide no additional benefit.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in public awareness, and conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal agency involvement has been identified at this time.

Listing of this plant as threatened will provide for the development of a recovery plan. Such a plan will bring together Federal, State, and local efforts for its conservation. The plan will establish a framework for cooperation and coordination in recovery efforts. The plan will set recovery priorities and estimate costs of various tasks necessary to accomplish them. It also will describe site-specific management actions necessary to achieve conservation and survival of *Holocarpha macradenia*.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 for threatened plants, applies. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to *Holocarpha macradenia* in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that their containers are marked "Of Cultivated Origin." Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated that few trade permits would ever be sought or issued because this species is not in cultivation or common in the wild. Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Portland Regional Office, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–6131, FAX 503/231–6243).

The Service adopted a policy on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is proposed for listing those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within a species' range. The Service believes that, based upon the best available information, the following actions will not result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g., grazing management, agricultural conversions, land use activities that would significantly modify the species' habitat, wetland and riparian habitat modification, flood and erosion control, residential development, recreational trail development, road construction, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, pipelines or utility line crossing suitable habitat,) when such activity is conducted in accordance with any reasonable and prudent measures given by the Service according to section 7 of the Act; or when such activity does not occur in habitats suitable for the survival and recovery of *Holocarpha macradenia* and does not alter the hydrology or habitat supporting this plant.

(2) Casual, dispersed human activities on foot or horseback (e.g., bird watching, sightseeing, photography, camping, hiking).

(3) Activities on private lands (without Federal funding or involvement), such as grazing management, agricultural conversions, wetland and riparian habitat modification (not including filling of wetlands), flood and erosion control, residential development, road construction, pesticide/herbicide application, and pipelines or utility lines crossing suitable habitat.

(4) Residential landscape maintenance, including the clearing of vegetation around one's personal residence as a fire break.

The Service believes that the actions listed below might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting of the species on Federal lands;

(2) Application of herbicides violating label restrictions;

(3) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit. Permits to conduct activities are available for purposes of scientific research and enhancement of propagation or survival of the species.

Questions regarding whether specific activities, such as changes in land use, will constitute a violation of section 9 should be directed to the Field Supervisor, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. The Fish and Wildlife Service will follow its current peer review policy (59 FR 34270) in the processing of this rule. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) The location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of this species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulations on this species will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein, as well as others, is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this proposed rule is Constance Rutherford, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003 (telephone 805/644–1766).

List of Subjects in 50 CFR part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic Range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
•	•	•	•	•	•	•	
FLOWERING PLANTS							
•	•	•	•	•	•	•	
Holocarpha macradenia.	Santa Cruz tarplant	U.S.A. (CA)	Compositae	T	.....	NA	NA
•	•	•	•	•	•	•	

Dated: March 17, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–8052 Filed 3–27–98; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018—AE85

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Cowhead Lake Tui Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to determine the Cowhead Lake tui chub (*Gila bicolor vaccaceps*), to be an endangered species under the authority of the Endangered Species Act of 1973, as amended (Act). The Cowhead Lake tui chub is a fish that is found only in Cowhead Slough and connected ditches within the bed of Cowhead Lake in extreme northeastern Modoc County, California. This subspecies is threatened throughout its range by a variety of human impacts, including the dewatering of Cowhead Lake, livestock grazing, agricultural activities, and by random naturally occurring events. This proposal, if made final, would implement Federal protection provided by the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by May 29, 1998. Public hearing requests must be received by May 14, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Sacramento Fish and Wildlife Service Office, U.S. Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Field Supervisor, at the above address (telephone 916/979–2710).

SUPPLEMENTARY INFORMATION:

Background

The Cowhead Lake tui chub was first recognized as a distinct subspecies by Hubbs and Miller (1948) and was first described by Bills and Bond (1980). The following morphological description is taken from Bills and Bond (1980) and Moyle *et al.* (1989). The Cowhead Lake tui chub is a small fish in the minnow family (Cyprinidae) approximately 85–115 millimeters (3–4.5 inches) from the nose to the middle of the tail and is distinguished from the other subspecies of tui chub by the number of gill rakers (bony projections in the gills). Coloration is silver like other subspecies of tui chub, except for a dark lateral stripe and dark speckles scattered on the cheek, operculum (area behind the eye) and lower body. The pectoral fins usually exhibit a row of melanophores (cells containing dark pigment) along the anterior rays and a few specimens have exhibited a concentration of pigment on the pelvic and anal fins. There have been no formal studies on the life history or habitat of the Cowhead Lake tui chub. The following information refers to tui chubs in general and is taken from Moyle (1976).

Tui chubs occur in a wide variety of habitats, most commonly in the weedy shallows of lakes and quiet waters in sluggish rivers. They do well in a wide variety of water conditions from warm to cold, and clear to eutrophic. In the fall they seek out deeper water and may spend winters in a semi-dormant state on the bottom of lakes. Tui chubs are opportunistic omnivores concentrating on invertebrates associated with bottom or aquatic plants (i.e., clams, insect larvae, insects, crayfish) as well as algae and plant material. Tui chub usually spawn from late April to late June; eggs adhere to plants or the bottom and hatch in 9 days. In large deep lakes, tui chubs tend to form large schools in shallow water frequently associated with beds of aquatic vegetation. In shallow lakes, with heavy aquatic growth, schooling is less noticeable. Tui chubs tend to disperse amongst the vegetation presumably as protection from predators. Tui chubs appear to be able to adapt to the severe long and short-term climatic fluctuations characteristic of the interior basins where they are most common. The family Cyprinidae in general has been successful because they have a well-developed sense of hearing, release a fear scent when injured (a warning signal to others), have pharyngeal teeth (broader diet), and exhibit high fecundity. Despite these advantages, many native minnows are declining in numbers as their environment deteriorates beyond their ability to cope with the changes or they are displaced by more aggressive introduced species.

Cowhead Lake tui chub are found in the vicinity of Cowhead Lake, a Pleistocene lake in the extreme northeastern corner of Modoc County, California, in an area known as the Modoc Plateau. The Modoc Plateau consists of molten basalt that formed approximately 70 million years ago (Young et *al.* 1988). The area is characterized by lava rims, upland plateaus, lava flows and tubes, ancient pluvial lake beds and large-volume springs, and shallow soils (Young *et al.* 1988). Volcanic rock is porous, therefore, most of the rainfall percolates through into the groundwater. Surface water is minimal, but rainfall and snowmelt in the mountains feed the groundwater, which surfaces as springs. The habitat type is sagebrush steppe, which is generally a treeless, shrub-dominated community characterized by sagebrush (*Artemesia* species) with perennial bunch grasses in the understory and some juniper pine (Young *et al.* 1988). The area is characterized by cold, harsh winters, dry summers, and low rainfall.

The lakebed of Cowhead Lake is approximately 1,100 hectares (2,700 acres) based on assessors maps (Modoc County, California, Jan. 1982), with an elevation of 1,597 meters (5,241 feet). Historically, Cowhead Lake and Cowhead Slough are thought to have been marsh habitat, based on the soil type. In its natural state the lake's water levels were probably variable. This habitat type would have retained and stored its water, slowly discharging it via Cowhead Slough to Twelvemile Creek and on into the Warner Basin (Roger Farschon, Bureau of Land Management (BLM), pers. comm., 1997a). Cowhead Slough and Cowhead Lake are fed mainly by snowmelt runoff and springs via Eightmile Creek and other smaller tributaries from the Warner Mountains. There may also be several faults at the upper end of the slough that provide subsurface flow (Sato *in litt.* 1992). Historically the lake was probably shallow and naturally dried up on occasion (Peter Moyle, University of California, Davis, pers. comm., 1997). Approximately 40 percent of the lakebed occurs on private land and 60 percent of the lakebed has unknown title based on a title search done in 1997 (Modoc County Title Co. *in litt.* 1997). The lake went dry sometime in the 1930's. Since the drought ended, and continuing up to the present day, the lake has been mechanically pumped dry so that the lakebed could be used to grow hay. There is a series of irrigation ditches, two reservoirs on nearby creeks, and a mechanical pumping system, which

have modified the hydrology of the Cowhead basin.

Cowhead Lake tui chub were found in a spring and a reservoir adjacent to Cowhead Lake (Miller 1939), in irrigation ditches within Cowhead Lake (Sato *in litt.* 1993), and in Cowhead Slough (Moyle *in litt.* 1974, Sato *in litt.* 1992 and 1993, Olson *in litt.* 1997, Jack Williams, BLM, pers. comm., 1997). The entire current estimated range of this species is approximately 5.4 kilometers (3.4 miles) of Cowhead Slough and connected ditches within the bed of Cowhead Lake. Approximately one half of the range is on public land managed by the Bureau of Land Management (BLM). The other half of the range is on land that has been managed by private ownership since the 1950's. However, the Service has not been able to locate documentation of title in the public records to support this assumption. This portion of the tui chub's range will be referred to as private land in this proposed rule, but the Service is not currently clear on the ownership of this portion of the species range.

There are no population estimates available for the Cowhead Lake tui chub. Surveys in the lake bed and adjacent springs and reservoirs on private lands have been limited because access has been restricted. Surveys on adjacent BLM land have focused on distribution and not estimating population numbers.

Previous Federal Action

On December 30, 1982, the Service published a revised notice of review for vertebrate wildlife in the **Federal Register** (47 FR 58454) designating the Cowhead Lake tui chub as a category 2 candidate. Category 2 was composed of taxa for which the Service had information indicating that threatened or endangered status might be warranted, but for which adequate data on biological vulnerability and threats were not available to support issuance of listing proposals. As a result of additional information obtained, the Service reclassified the Cowhead Lake tui chub as a category 1 candidate in the November 21, 1991, notice of review (56 FR 58804). The Cowhead Lake tui chub was included as a candidate in the February 28, 1996 (61 FR 7596), and September 19, 1997 (62 FR 49398), notices of review.

The processing of this proposed rule conforms with the Service's final listing priority guidance for fiscal year 1997, published in the **Federal Register** on December 5, 1996 (61 FR 64475). In a **Federal Register** notice published on October 23, 1997 (62 FR 55628), the guidance was extended beyond fiscal year 1997. The fiscal year guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6), and (2) the restoration of significant funding for listing through passage of the Omnibus Budget Reconciliation Act on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. Based on biological considerations, this guidance establishes a "multi-tiered approach that assigns relative priorities, on a descending basis, to actions to be carried out under section 4 of the Act" (61 FR 64479). The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. Tier 3 includes the processing of new proposed listings for species facing high magnitude threats. This proposed rule for the Cowhead Lake tui chub falls under Tier 3. The guidance states that "effective April 1, 1997, the Service will concurrently undertake all of the activities presently included in Tiers 1, 2, and 3" (61 FR 64480). The Service has thus begun implementing a more balanced listing program, including processing more Tier 3 activities. The completion of this Tier 3 activity (a proposal for a species with a listing priority of 3 (high-magnitude, imminent threats)) follows those guidelines.

Summary of Factors Affecting the Species

Section 4 of the Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Cowhead Lake tui chub are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The historic range of the Cowhead Lake tui chub is thought to be Cowhead Lake, when it retained water, and the springs and low gradient portions of the creeks draining into Cowhead Lake (P. Moyle, pers. comm., 1997; USDI 1997). The lake was probably shallow and dried up naturally on occasion, periodically confining Cowhead Lake tui chub to the streams and springs (P. Moyle, pers. comm. 1997). The lakebed itself is 1,100 hectares (2,700 acres) with a topographic gradient of 0 to 5 meters (0 to 16 feet) (based on topographic measurements on a 1990 USGS 7.5 minute quadrangle map). The surface flow of water is naturally highly variable in this volcanic, high desert area. The amount of suitable aquatic habitat for this species may vary from year to year based on the water supply. It is unclear precisely what role the tributary springs and creeks currently play in the life history of Cowhead Lake tui chub. It is also unknown what the impact of flooding was when the lakebed was in its natural state.

The diversion of water from Cowhead Lake has eliminated approximately 98 percent of the Cowhead Lake tui chub's historical range and is a threat to the Cowhead Lake tui chub. Before the turn of the century a water diversion ditch (Peterson ditch) was built in the Warner mountains west of Cowhead Lake, which diverts water from Twelvemile Creek and possibly from Eightmile Creek into Surprise Valley, southwest of Cowhead Lake (R. Farschon, pers. comm., 1997a). Another ditch was built in the 1910's (Sato *in litt.* 1992) on the Schadler property that appears to divert water from Peterson ditch into Eightmile Creek. In the 1930's the lake went dry and ranchers started growing hay in the lakebed. When the drought ended, the connection between Cowhead Lake and Cowhead Slough was dredged so that the lake would stay drained to permit continued hay production. Cowhead Slough was dredged 1–1.5 meters (3–5 feet) deep from the lakebed north to the edge of public BLM lands (R. Farschon, 1997a). In the 1960's a privately owned reservoir was built on Eightmile Creek to allow controlled irrigation to two pastures. This water is ultimately collected in a ditch in the lakebed, which runs into Cowhead Slough. Barrel Springs (2 miles to the southeast of Cowhead lake) and its associated tributaries used to contribute water to Cowhead Lake until its water flow was diverted for agricultural uses. Currently the seasonal waters from the Barrel Springs area drain to the northeast of the lake and into Cowhead Slough. The lake usually holds some water during the wet season before pumping begins in the spring. In the mid-1980's and in 1997 there was enough water to fill the lake. Beginning around April each year, water in Cowhead Lake is actively pumped into Cowhead Slough and as a result no water remains in the lakebed outside of the ditches. The historical shallow-water marsh habitat is now maintained as irrigated pasture.

The current distribution of Cowhead Lake tui chub, based on recent surveys (1992 to 1997), is in various pools in Cowhead Slough and in connected ditches within the bed of Cowhead Lake from approximately 1 kilometer (0.5 mile) north of the confluence of Elevenmile Creek to the irrigation ditch in the lakebed of Cowhead Lake, approximately 5.4 kilometers (3.4 miles). Cowhead Lake tui chub have been observed feeding and hiding in filamentous mats of algae in the slough (Sato *in litt* 1993). Mats of *Ranunculus* also appear to provide cover for young of the year in the slough (Sato *in litt* 1993). Cowhead Slough consists of a series of pools (95 percent) and riffles (5 percent) which wind through a lava canyon approximately 50 meters (164 feet) wide and approximately 6.4 kilometers (4 miles) long. The size of the water course itself is far narrower than the canyon and varies according to the amount of runoff and snowmelt each year. The slough ranges from 1–2 meters (4–6 feet) wide (Ken Sanchez, USFWS, pers. comm., 1997) to a trickle, with large pools up to 10 meters (33 feet) wide, 50 meters (164 feet) long and 1 meter (3 feet) deep (Moyle *in litt* 1974). In the mid-1980's pools were reported to be up to 2 meters (6.5 feet) deep due to heavy precipitation in those years (Sato *in litt.* 1992). Moyle *et al.* (1989) reported the bottom of the channel as 80 percent mud, 5 percent sand, and 15 percent boulder/bedrock with abundant rooted and floating vegetation, but little overhanging canopy cover. According to Sato (*in litt.* 1993) the upper end of the slough above the pump on private land has more riparian habitat (willows) and more perennial water than the rest of slough. There is also a difference in topography between the private and public sections of the slough. The private land has a steeper gradient, more cobbles and boulders, deeper pools, and more open water than the reaches on public lands. These factors may account for why there appear to be more Cowhead Lake tui chub in Cowhead Slough on the private land. It has also been hypothesized that as the slough dries up annually, the fish move upstream to the more perennial water.

The banks of Cowhead Slough contain mostly short-cropped annual grasses with minimal riparian vegetation (Sato *in litt.* 1992). The water has been reported as muddy and turbid during surveys from possible erosion of the slough banks caused primarily by cattle grazing and from drainage of ephemeral streams into the slough (Moyle *in litt.* 1974, Sato *in litt.* 1992). Cowhead Slough and the ditches in the lakebed are within either public or private grazing allotments, which are actively grazed (R. Farschon, pers. comm., 1997b). The lack of riparian habitat can reduce the amount of water retained in the slough later in the year (Sato *in litt.* 1993). The degradation of water quality can reduce oxygen levels, visibility and prey abundance for the Cowhead Lake tui chub.

Prior to being drained the lake is thought to have contained the majority of the Cowhead Lake tui chub population. Currently the population appears to be restricted to Cowhead Slough and connected ditches within the lake bed, which have been severely altered from their natural condition. The entire population occurs in one connected drainage within a very confined area 5.4 kilometers (3.4 miles), and there are no additional refugial populations. Protection of the habitat within this very limited range is required to conserve the Cowhead Lake tui chub. Further loss of habitat from agricultural modifications is a threat to the continued existence of the Cowhead Lake tui chub.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The Cowhead Lake tui chub has not been documented as a commercial or recreational fish species. It has been little studied and there are only a handful of documented collections. This factor is not considered a threat to the existence of the Cowhead Lake tui chub.

C. *Disease or predation.* Aquatic snakes and birds are likely predators of Cowhead Lake tui chub. This species is most vulnerable to predation during drought periods when much of the drainage dries up and Cowhead Lake tui chub are concentrated in smaller pools. The only other species detected in Cowhead Lake tui chub habitat are speckled dace (*Rhinichthys osculus*) and an occasional trout, which do not appear to pose a threat to the Cowhead Lake tui chub. Introduction of nonnative fish, game fish, or other tui chubs could harm the Cowhead Lake tui chub through increased competition, predation, and hybridization. There have been no documented instances of disease adversely affecting the Cowhead Lake tui chub. If a disease were introduced, the tui chub population would be at great risk because of its small size and confined range.

D. *The inadequacy of existing regulatory mechanisms.* Currently there are no regulatory mechanisms that specifically protect the Cowhead Lake tui chub or its habitat. The current documented range of the Cowhead Lake tui chub is approximately 50 percent on private land and 50 percent on public land. It appears that the majority of the population occurs on private land where there is more perennial water. The Cowhead Lake tui chub is considered a species of special concern by CDFG as Class 1: Endangered. This designation indicates that the species meets the State definition to qualify for official listing, but is not officially listed yet. The Federal status of the Cowhead Lake tui chub is as a candidate species (see section on Previous Federal Action). There is currently no regulatory authority vested in either the State or Federal designations that offers protection or appropriate management for this species. This lack of adequate regulatory protection is a threat to the existence of the Cowhead Lake tui chub.

The National Environmental Policy Act (NEPA) and section 404 of the Clean Water Act (CWA) represent the primary Federal laws that could potentially afford some protection to listed species, however, neither of these laws protect candidate species. The conversion of land to agricultural uses that may adversely affect the Cowhead Lake tui chub is generally unregulated at any level of government. For example, the U.S. Army Corps of Engineers (Corps) has promulgated regulations that exempt some farming, forestry, and maintenance activities from the regulatory requirements of section 404 (33 CFR 323.4).

The California Environmental Quality Act (CEQA) offers some opportunities to protect rare and endangered plants or animals, as well as species that are eligible for listing but are not currently listed. If a proposed project may significantly impact a species, it is possible to require mitigation. However, this protection is at the discretion of the lead agency involved and social and economic considerations can override requirements for mitigation or protection. Proposed revisions to CEQA guidelines, if made final, may weaken the current protections for threatened, endangered and other sensitive species. Section 1603 of California Fish and Game Code authorizes the California Department of Fish and Game (CDFG) to regulate streambed alterations. Such alterations include any work that substantially diverts, alters or obstructs the natural flow or substantially changes the bed, channel or bank of any river, stream or lake. At this time, the Service is not aware of any 1603 permit for the activities occurring in Cowhead Lake and Cowhead Slough.

E. *Other natural or manmade factors affecting its continued existence.* Pest control programs (i.e., USDA–APHIS grasshopper control program) that

introduce pesticides into the drainage are a threat to the Cowhead Lake tui chub. The water supply in this high desert habitat is low and variable and naturally limits the amount of suitable habitat for the Cowhead Lake tui chub. This natural condition offers fewer options for refuge for Cowhead Lake tui chub in the event of drought, harsh winter conditions or human-induced environmental impacts.

The entire population of Cowhead Lake tui chub occurs in less than 2 percent of its historical range and, therefore, is vulnerable to the risks associated with small, restricted populations. Impacts to species populations that can lead to extinction include: the loss or alteration of essential elements (habitat, food), the introduction of limiting factors into the environment (poison, predators), and catastrophic random changes or environmental perturbations (extreme weather, disease) (Gilpin and Soule 1986). Many extinctions are the result of a severe reduction of population size by some deterministic event, followed by a random natural event that extirpates the species. The smaller a population is, the greater its vulnerability to stochastic perturbations (Terbough and Winter 1980, Gilpin and Soule 1986, Shaffer 1987). The elements of risk that are amplified in very small populations include: (1) The impact of high death rates or low births rates; (2) the effects of genetic drift and inbreeding; and (3) deterioration in environmental quality. When the number of individuals in the sole population of a species or subspecies is sufficiently low, the effects of inbreeding may result in the expression of deleterious genes in the population (Gilpin 1987). Deleterious genes reduce individual fitness in various ways, most typically as decreased survivorship of young. Genetic drift in small populations decreases genetic variation due to random changes in gene frequency from one generation to the next.

This reduction of variability within a population limits the ability of that population to adapt to environmental changes.

One scenario where loss of habitat may cause extinction is when the species is a local endemic (because of their isolation and restricted range) (Gilpin and Soule 1986). The Cowhead Lake tui chub is a local endemic, which can be locally abundant, yet lives in a very restricted area. Because the sole population is small and occurs in one single drainage, it is extremely vulnerable to natural or human-made environmental impacts. There are no known populations of Cowhead Lake tui chub outside of Cowhead Slough for recolonization if a catastrophic event were to occur in Cowhead Slough. While the species still occurs within its limited range, we do not know whether the population is declining, how habitat conditions may be affecting the population, and how the small population size may be affecting genetic and behavioral stability. Based on the vulnerability of this small population in its limited range, and the lack of any refugial populations or habitat, the Service believes that threats to current occupied or potential habitat and individuals put this species at risk of being extirpated.

The Service has carefully assessed the best scientific and commercial information available regarding the present and future threats faced by this species in determining this proposed rule. This species is threatened throughout its range by a variety of human impacts, including the dewatering of Cowhead Lake, livestock grazing, agricultural activities, and by random naturally occurring events. Based on this evaluation, the preferred action is to list Cowhead Lake tui chub as endangered based on the risk of extinction throughout all of its range. Critical habitat is not being proposed for this species for reasons discussed in the "Critical Habitat" section of this proposal.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species. The Service determines that designation of critical habitat for the Cowhead Lake tui chub is not prudent due to lack of benefit to the species.

Critical habitat receives consideration under section 7 of the Act with regard to actions carried out, authorized, or funded by a Federal agency (see Available Conservation Measures section). As such, designation of critical habitat may affect activities on Federal lands and may affect activities on non-Federal lands where such a Federal nexus exists. Under section 7 of the Act, Federal agencies are required to ensure that their actions do not jeopardize the continued existence of a species or result in destruction or adverse modification of critical habitat. However, both jeopardizing the continued existence of a species and adverse modification of critical habitat have similar standards and thus similar thresholds for violation of section 7 of the Act. In fact, biological opinions that conclude that a Federal agency action is likely to adversely modify critical habitat but not jeopardize the species for which the critical habitat has been designated are extremely rare. Also, the designation of critical habitat for the purpose of informing Federal agencies of the locations of occupied Cowhead Lake tui chub habitat is not necessary because the Service can inform Federal agencies through other means. For these reasons, the designation of critical habitat for the Cowhead Lake tui chub would provide no additional benefit to the species beyond that conferred by listing, and therefore, such designation is not prudent.

Cowhead Lake tui chub has an extremely narrow distribution in one small reach (5.4 kilometers (3.4 miles)) of Cowhead Slough. At the present time, no other site is known to be occupied by or suitable for this fish. However, the Service believes that a high level of awareness already exists for this species due to numerous efforts since 1994, between private and public entities, to develop and implement a conservation agreement to conserve and protect this species (J. Danna *in litt.* 1994a and 1994b, J. Schadler *in litt.* 1994 and 1995, S. Stokke *in litt.* 1997). In addition, the Cowhead Lake tui chub has been included in the draft Recovery Plan for Warner Basin fishes and may benefit to some degree from recovery actions specified for the listed species in the plan (USDI 1997). The private

landowners at Cowhead Lake are aware of the Cowhead Lake tui chub's presence and extremely limited habitat, as are the BLM managers and others involved in management of the area. Therefore, designation of critical habitat would provide no benefit with respect to notification. In addition, given the species' narrow distribution and precarious status, virtually any conceivable adverse effect to the species' habitat would very likely jeopardize its continued existence. Designation of critical habitat for Cowhead Lake tui chub would, therefore, provide no benefit to the species apart from the protection afforded by listing the fish as endangered.

Protection of the habitat of Cowhead Lake tui chub will be addressed through the section 4 recovery process and the section 7 consultation process. The Service believes that activities involving a Federal action which may affect Cowhead Lake tui chub can be identified without designating critical habitat by providing Federal agencies with information on the locations of occupied habitats and information on the kinds of activities which could affect the species. For the reasons discussed above, the Service finds that the designation of critical habitat for the Cowhead Lake tui chub is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities are discussed, in part, below.

The Cowhead Lake tui chub has been included in a draft Recovery Plan for the threatened and rare native fishes of the Warner Basin and Alkali (USDI 1997). The Cowhead Lake tui chub was included because it is a rare native endemic that occurs within the Warner Basin that could potentially benefit from recovery actions in the Warner Basin for the other listed native fishes.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat, if any is designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Approximately one-half of the only known population of Cowhead Lake tui chub is on BLM-managed land including grazing allotments within the range of this species. Grazing can decrease water quality by removing vegetation on streambanks and uplands, thereby increasing erosion and sedimentation, and by polluting the water with waste products.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. With respect to the Cowhead Lake tui chub, these prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and for incidental take in connection with otherwise lawful activities. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. For additional information concerning these permits and associated requirements, see 50 CFR 17.22. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to: Regional Director, U.S. Fish and Wildlife Service, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (503/231–6241; FAX 503/231–6243).

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of a proposed listing on proposed and ongoing activities within a species' range. The Service believes that, based on the best available information, the following actions will not result in a violation of section 9, provided these actions are carried out in accordance with any existing regulations and permit requirements:

(1) Possession of legally acquired Cowhead Lake tui chub;

(2) Actions that may affect Cowhead Lake tui chub which are authorized, funded or carried out by a Federal agency, when the action is conducted in accordance with an incidental take statement issued by the Service pursuant to section 7 of the Act.

(3) Actions that may affect Cowhead Lake tui chub that are not authorized, funded or carried out by a Federal agency, when the action is conducted in accordance with an incidental take statement issued by the Service pursuant to section 10(a)(1)(B) of the Act. Section 10(a)(1)(B) refers to Habitat Conservation Plans (HCP's) that are negotiated after a species has been listed under Section 4 of the Act and are designed to mitigate and minimize impacts to the species to the greatest extent practicable.

Activities that the Service believes could potentially harm the Cowhead Lake tui chub and result in "take" include, but are not limited to:

(1) Take of Cowhead Lake tui chub without a permit, which includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting any of these actions;

(2) Possess, sell, deliver, carry, transport, or ship illegally taken Cowhead Lake tui chub;

(3) Introduction of nonnative fish species that compete or hybridize with, or prey on Cowhead Lake tui chub;

(4) Destruction or alteration of Cowhead Lake tui chub habitat by dredging, channelization, diversion, instream vehicle operation or rock removal, or other activities that result in the destruction or significant degradation of cover, channel stability, substrate composition, temperature, and corridors used by the species for foraging, cover, and spawning;

(5) Discharges or dumping of toxic chemicals, silt, or other pollutants into waters supporting Cowhead Lake tui chub that result in death or injury of the species; and

(6) Destruction or alteration of riparian or streamside habitat and adjoining uplands of waters supporting Cowhead Lake tui chub by grazing, mining, hydropower development, agriculture or other developmental activities that result in destruction or significant degradation of cover, channel stability, substrate composition, temperature, and corridors used by the species for foraging, cover, and spawning.

The term "significant degradation of habitat", as used in the descriptions of activities above, is that amount of degradation which causes "take" of Cowhead Lake tui chub. Not all of the activities mentioned above will result in violation of section 9 of the Act; only those activities which result in "take" of Cowhead Lake tui chub are considered violations of section 9. Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the Field Supervisor of the Services Sacramento Fish and Wildlife Office (see **ADDRESSES** section). Requests for information on permits should be addressed to the Assistant Regional Director, Ecological Services, U.S. Fish and Wildlife Service, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (503/231–6241; FAX 503/231–6243).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the Cowhead Lake tui chub;

(2) The location of any additional populations of the Cowhead Lake tui chub and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of the Cowhead Lake tui chub;

(4) Any examples of take or vandalism of Cowhead Lake tui chub; and

(5) Current or planned activities in the subject area and their possible impacts on the Cowhead Lake tui chub.

A final determination of whether to list this species will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final decision document that differs from this proposal.

The Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of this proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments or Environmental Impact Statements , as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the Field Supervisor, Sacramento Field Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Ann Chrisney, Sacramento Field Office (see **ADDRESSES** section), telephone 916/979–2725.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under Fish, to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
FISHES							
*	*	*	*	*	*	*	
Chub, Cowhead Lake tui.	*Gila bicolor vaccaceps.*	U.S.A. (CA)	Entire	E	.....	NA	NA
*	*	*	*	*	*	*	

Dated: March 17, 1998

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–8051 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE76

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for Chlorogalum purpureum (Purple Amole), a Plant from the South Coast Ranges of California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes threatened status pursuant to the Endangered Species Act of 1973, as amended (Act), for the California plant, *Chlorogalum purpureum* (purple amole). One of the two varieties comprising this species, *C. p.* var. *purpureum*, is known only from the central south coast ranges in Monterey County, on lands managed by the Department of the Army at Fort Hunter Liggett. It is threatened by loss and alteration of habitat and direct loss of plants from construction and use of military training facilities, field training activities, and alteration of fire cycles due to military training. The other variety, *C. p.* var. *reductum*, is known only from two sites in the La Panza region of the coast ranges in San Luis Obispo County, on U.S. Forest Service and private lands. This taxon is threatened by illegal vehicle trespass into the population on Forest Service land. This proposed rule, if made final, would extend the Act's protection to these plants. Although this rule proposes *Chlorogalum purpureum* at the species level, each variety would be treated as a separate taxonomic unit for the purposes of applying the section 7 jeopardy standard and identifying recovery units, if this rule is made final.

DATES: Comments from all interested parties must be received by May 29, 1998. Public hearing requests must be received by May 14, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials received, as well as the supporting documentation used in preparing the rule, will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Listing and Recovery, at the address above (telephone 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Chlorogalum purpureum (purple amole) was first described by Brandegee in 1893 from specimens collected in the Santa Lucia Mountains by William Vortriede a year earlier (Brandegee 1893). In 1904, E.L. Greene (1904) published the new combination *Laothoe purpurea* when he discovered that the genus name *Laothoe* had been published earlier than *Chlorogalum*. However, R.F. Hoover (1940) conserved the name *Chlorogalum* through the rule of *nomen conservandum*. Hoover (1964) described the variety *reductum*, commonly known as Camatta Canyon amole, based on its shorter stature compared to the nominative variety. This nomenclature was retained in the most recent treatment of the genus (Jernstedt 1993). These two varieties comprise the entire species.

Chlorogalum purpureum is a bulb-forming perennial herb in the lily family (Liliaceae). It has a basal rosette of linear leaves 2 to 5 millimeters (mm) (0.1 to 0.2 inches (in)) wide with wavy margins. A widely branching stem supports bluish-purple flowers with six recurved tepals (petals and sepals that have a similar appearance). The stems of *C. p.* var. *purpureum* are 25 to 40 centimeters (cm) (10 to 16 in) high, whereas those of *C. p.* var. *reductum* are only 10 to 20 cm (4 to 8 in) high (Hoover 1964, Jernstedt 1993). *Chlorogalum purpureum* is the only member of the genus with bluish-purple flowers that open during the day (Jernstedt 1993). Reproduction in *Chlorogalum purpureum* is primarily by seed. Hoover (1964) reports that clonal reproduction by longitudinal splitting of the bulbs is rare; some splitting has been noted in one population of *C. p.* var. *reductum* (Alice Koch, California Department of Fish and Game (CDFG), pers. comm. 1997b).

Chlorogalum purpureum occurs in grassland, oak woodland, and oak savannah between 300 and 620 meters (m) (1,000 and 2,050 feet (ft)) in elevation in the south coast ranges of California. *Chlorogalum purpureum* var. *purpureum* is known from oak woodlands and meadows at three sites near Jolon in Monterey County on lands owned and managed by the Department of the Army (Fort Hunter Liggett). Historically, appropriate habitat may have existed east of the base, in Jolon Valley, but most of the flat areas in that valley have been converted to cropland, pasture, or vineyards. At Fort Hunter Liggett, the plant occurs on flat or gently sloping terrain with a gravelly surface underlain by clay soils, where other vegetation is sparse.

Of the three localities of *Chlorogalum purpureum* var. *purpureum*, one is comprised of discontinuous and fragmented patches of plants scattered over an area 7 to 9 kilometers (km) (4 to 6 miles (mi)) long and about 5 km (3 mi) wide in the cantonment (housing and administration area), the Ammunition Supply Point and adjacent Training Area 13, and the boundary of Training Area 10 (U.S. Army Reserve 1997, map provided by U.S. Army Reserve 1997, Painter and Neese 1997). While some of the discontinuities in distribution are due to unsuitable intervening habitat, other patches have been fragmented by roads, the historical settlement of Jolon, and military training facilities. No population counts have been made at this site, but estimates of some areas within it suggest that it supports several thousand plants (U.S. Department of the Army 1997, Painter and Neese 1997). The second locality is about 4 km (2.5 mi) to the southeast in Training Area 25. The taxon is patchily distributed in an area of about 6 square km (2 square mi) that is laced with vehicle tracks and dirt roads. At one location there, 400 to 500 plants have been recorded (Painter and Neese 1997), but the entire site may support several thousand individuals. The third and southernmost locality is at the boundaries of Training Areas 23, 24, and 27. This is the largest known site and contains plants in high densities. Following a fire that may have promoted flowering, this site was estimated to support up to 10,000 plants (Painter and Neese 1997).

The primary threats to *Chlorogalum purpureum* var. *purpureum* are the loss, fragmentation, and alteration of habitat and direct elimination of plants from construction and use of military training facilities, military field training activities, alteration of fire cycles due to military training, and potentially from grazing and associated habitat changes.

About 110 km (70 mi) to the south, *Chlorogalum purpureum* var. *reductum* occurs in one region in the La Panza Range of San Luis Obispo County. It is known from only two sites. One is located just south of Highway 58; a smaller site is located approximately 5 to 8 km (3 to 5 mi) to the south. The

larger locality occurs on lands managed by the U.S. Forest Service (USFS) on Los Padres National Forest (LPNF), extending into a Caltrans right-of-way along the highway. This population is located on a narrow, flat-topped ridge or plateau surrounded by blue oak (*Quercus douglasii*) woodland. The plateau is probably the remains of an ancient elevated alluvial terrace, most of which has been eroded away by surrounding drainages that are now 90 to 120 m (300 to 400 ft) below the plateau (H. Ehrenspeck, *in litt.* 1994). The soils have been described as well-drained red clays with a large component of gravel and pebbles (Hoover 1964, Lopez 1992).

The population is patchily distributed over the plateau and adjacent high areas and has been estimated to occupy just 2 to 3 hectares (ha) (less than 8 acres (ac)) (Lopez 1992; M. Borchert and K. Danielsen, USFS, pers. comm. 1997). A graded dirt road about 10 m (30 ft) wide bisects the population. The road leads to private inholdings and residences on the LPNF and is bounded on either side by a pipe barrier that was installed in 1989 or 1990 to prevent off-highway vehicles (OHVs) from using the site (David Magney, biological consultant, pers. comm. 1997). A removable portion of the barrier and a barbed wire section of fence are still routinely breached by OHVs. Such illegal use has increased in the past two years, particularly during the past year (A. Koch, California Department of Fish and Game (CDFG), *in litt.* 1997a).

The population size at this site has ranged from 1,000 individuals to several hundred thousand individuals (Borchert 1981, Warner 1991, Borchert *et al.* 1997). This variability probably reflects changes in the above-ground presence of plants, since bulbs may remain dormant during years with unfavorable growing conditions. Monitoring along a 100 m (330 ft) transect showed that plant numbers were relatively stable between 1991 and 1997 (Borchert *et al.* 1997). This transect is not located in an area where vehicle trespass has continued to occur and is therefore not representative of the status of the population in areas subject to OHV activity.

The second known locality of *Chlorogalum purpureum* var. *reductum* was first documented by botanists in the mid 1990s. It is located 5 to 8 km (3 to 5 mi) south of the LPNF population in an area with similar soils and topography (David Chipping, California Polytechnic State University, *in litt.* 1997). The taxon has been estimated to occupy less than 0.1 ha (0.25 ac) and consists of several hundred plants in two or more patches on private land. The landowner has expressed an interest in the plant and its protection (D. Chipping, *in litt.* 1997).

Chlorogalum purpureum var. *reductum* is threatened by illegal vehicle trespass into the larger locality on LPNF. In addition, grazing by livestock may potentially pose a threat.

Previous Federal Action

Federal government actions on this species began as a result of section 12 of the Endangered Species Act, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Doc. No. 94–51) was presented to Congress on January 9, 1975, and included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* as endangered. The Service published a notice on July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4 (b)(3)) of the Act and its intention to review the status of the plant taxa named therein.

On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. This list, which included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Endangered Species Act required that all proposals over two years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In a December 10, 1979, notice (44 FR 70796), the Service withdrew the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* were included in that withdrawal notice.

The Service published an updated Candidate Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Chlorogalum purpureum* var. *purpureum* and *C. p.* var. *reductum* as category 2 candidates. Category 2 candidates were formerly defined as taxa for which data on biological vulnerablilty and threats in the Service's possession indicated that listing was possibly appropriate, but was not sufficient to support proposed rules. The two *Chlorogalum* taxa were listed as category 1 candidates in the revised plant notices of review published in the **Federal Register** on September 27, 1985 (50 FR 39526), February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144). Category 1 candidates were defined as those taxa for which the Service had on file sufficient information on biological vulnerability and threats to support the preparation of listing proposals, but issuance of the proposed rule was precluded by other pending listing proposals of higher priority. The two *Chlorogalum* taxa were listed as candidates in the Notice of Review published on February 28, 1996 (61 FR 7596), as well as in the Notice of Review published on September 19, 1997 (62 FR 49398). The definition formerly applied to category 1 candidates now applies to candidates as a whole.

The processing of this proposed rule conforms with the Service's final listing priority guidance for fiscal year 1997, published in the **Federal Register** on December 5, 1996 (61 FR 64475). In a **Federal Register** notice published on October 23, 1997 (62 FR 55628), the guidance was extended beyond fiscal year 1997 until such time as the fiscal year 1998 appropriations bill for the Department of the Interior becomes law and new final guidance is published. The fiscal year 1997 guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6), and (2) the restoration of significant funding for listing through passage of the Omnibus Budget Reconciliation Act on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. Based on biological considerations, this guidance establishes a "multi-tiered approach that assigns relative priorities, on a descending basis, to actions to be carried out under section 4 of the Act" (61 FR 64479). The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. Tier 3 includes the processing of new proposed listings for species facing high magnitude threats. This proposed rule for *Chlorogalum purpureum* falls under

Tier 3, since *C. p.* var. *reductum* has a listing priority number of 3; the listing priority number for *C. p.* var. *purpureum* is 9. The guidance states that "effective April 1, 1997, the Service will concurrently undertake all of the activities presently included in Tiers 1, 2, and 3" (61 FR 64480). The Service has thus begun implementing a more balanced listing program, including processing more Tier 3 activities. The completion of this Tier 3 activity follows those guidelines.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Chlorogalum purpureum* Brandegee (purple amole) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Chlorogalum purpureum* var. *purpureum* is known only from three localities on Fort Hunter Liggett, Monterey County. The northern site comprises discontinuous and fragmented patches over a 7 to 9 km (4 to 6 mi) area in the cantonment (housing and command center), several training areas, the Ammunition Supply point, and near the Jolon entrance gate. Habitat for *C. p.* var. *purpureum* has been destroyed and patches of plants have been isolated and fragmented by the historical settlement of Jolon, roads, and the construction and use of training facilities over the past several decades. In the 1980s, a large group of plants near the Jolon entrance gate was isolated by the addition of a new road (Matthews 1988). Bounded on all sides by roads, this area was used as a vehicle parking area. Representatives from Fort Hunter Liggett and the Monterey Chapter of the California Native Plant Society (CNPS) cooperated in constructing barriers to reduce impacts to the area (Matthews 1988). Although the military has committed to maintaining these protective barriers, this site remains vulnerable due to its proximity to roads. For example, in 1996 a vehicle mishap resulted in a large piece of earth-moving machinery entering the site; its tracks through the population were still evident in September 1997 (Painter and Neese 1997; D. Steeck, U.S. Fish and Wildlife Service, pers. obs. 1997).

In another portion of this northern locality, the Army is expanding training facilities (Holmann 1996). Since 1996, a new obstacle course and two small parking areas have been placed in habitat occupied by *Chlorogalum purpureum* var. *purpureum*. Although the obstacles themselves were placed to avoid some individual plants, foot traffic and use of the training facilities will likely degrade the habitat and eliminate a portion of the population. In addition to the obstacle course and parking areas, the Army has in the past 3 years constructed a confidence course and upgraded a firing range along the stretch of dirt road adjacent to the locality. The existence of some training facilities made this area more attractive for additional construction because the facilities could be located within walking distance of one another (Hormann 1996). For the same reason, this area is likely to be attractive for the siting of future training facilities.

The second locality is in Training Area 25, which is used for bivouacking and is crossed by numerous dirt roads and tracks. Large areas where substantial bivouacking occurred in 1997 were denuded, with much of the herbaceous grassland vegetation among the oaks destroyed. Dirt tracks were evident throughout the site (D. Steeck, pers. obs. 1997). Bivouacking in these areas apparently occurs in summer. Although soils are not as susceptible to compaction at that time, fruiting stalks are destroyed and the loss of vegetation, especially on vehicle tracks, may lead to erosion and the consequent loss of existing seeds and bulbs in the soil. Vehicle tracks were also evident in the third locality of *Chlorogalum purpureum* var. *purpureum* at the boundaries of Training Areas 23, 24, and 27. In 1997, the vegetation of this area appeared to be the least affected by training activities, although military training the previous year had caused a spring fire that burned the site and destroyed most of the year's seed crop (Painter and Neese 1997).

The larger site of *Chlorogalum purpureum* var. *reductum*, located on LPNF and estimated to occupy less than 3 ha (8 ac), is bisected by a dirt road that is currently about 10 m (33 ft) wide and runs the length of the population. Although this road has existed for many decades, grading during the past 5 years has widened it toward the bounds of the pipe barrier fence that lines it, causing direct loss of some individuals of *C. p.* var. *reductum* and additional habitat loss (D. Magney, pers. comm. 1997). Because the roadbed is graded and highly compacted, the loss of habitat due to the roadbed is relatively permanent, barring extensive restoration efforts. In addition, the roadbed is now below the level of the surrounding soil, creating the potential for it to alter local drainage patterns.

In the 1970s and 1980s, most of the LPNF locality of *Chlorogalum purpureum* var. *reductum* was used as a staging area by OHV enthusiasts (McLeod 1987). An established 4-wheel drive route still runs near the population (USFS 1993). A portion of the population was fenced in the early 1980s by the CNPS with help from the USFS to protect it from OHV use. In 1989 or 1990, due to continued OHV use in the area, the USFS installed a pipe barrier along the dirt road to exclude vehicles from most of the population. Two areas, one a gap between the pipe fence and the barbed wire fence and the other a removable section of the pipe barrier, currently allow access by vehicles. Repeated vehicle trespass occurs on the site; vehicles, broken fencing, and recent vehicle tracks have been reported (A. Koch, CDFG, *in litt.* 1997; D. Steeck, pers. obs. 1997). The extent of trespass appears to have increased during the past two years (A. Koch, *in litt.* 1997). Repeated vehicle passes cause soil compaction, altering the soil's water-holding capacity and interfering with the ability of roots to penetrate the soil (Webb and Wilshire 1983). The existing scars of older vehicle tracks in the population are probably partly the result of soil compaction. Biologists attempting to establish seedlings of *C. p.* var. *reductum* in old OHV tracks in the LPNF population found that only 36 percent of the seeds planted in untreated tracks germinated and survived through their first 1.5 years. Survival was 66 percent for seeds planted in old tracks where the top 10 cm (4 in) of soil was scarified (loosened) prior to planting to reduce the effects of soil compaction. Bulbs in unscarified soil of old tracks also had a lower survival rate compared to those in scarified soil (Koch 1997).

The sites of *Chlorogalum purpureum* var. *reductum* on private land are reported to be extremely small (less than 0.1 ha (0.25 ac) with several hundred plants), compared to the population managed by USFS. Because this taxon is so narrowly distributed, the degradation of even an acre or two of the habitat in the LPNF population constitutes a significant portion of this taxon's range.

Most localities of *Chlorogalum purpureum* are, or have been, subject to cattle grazing. Potential negative effects of livestock use of habitat occupied by *C. purpureum* include soil compaction, soil disturbance, introduction or spread

of nonnative aggressive weedy species, direct crushing of the above-ground portion of plants, loss of flowers or fruit, and diminished seedling establishment. It has been suggested, however, that light grazing may benefit *C. purpureum* var. *reductum* by reducing competition from annual grasses (The Nature Conservancy 1987, CDFG 1990). Predation by cattle is discussed below under factor C of the "Summary of Factors Affecting the Species."

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Overutilization is not known to be a factor affecting this species.

C. *Disease or predation.* Nearly every locality of *Chlorogalum purpureum* either is or has been subject to cattle grazing. The potential negative effects of grazing in the habitat include the loss of flowers or fruit, which could result in reduced reproduction. All three localities of *C. p.* var. *purpureum* at Fort Hunter Liggett were grazed prior to 1991. A recent grazing assessment of Fort Hunter Liggett states that documented overgrazing occurred there from 1963 to 1977, after which a study of grazing was begun (Stechman 1995). During this time, cattle stocking rates continued to exceed the capacity of the habitats to support them, especially when combined with the drought of the late 1980s and early 1990s (Stechman 1995). No specific information is available on the condition of the localities of *C. p.* var. *purpureum* during the period of overgrazing, as no basewide surveys for sensitive plant species had been conducted and the status of populations was not tracked. Grazing on Fort Hunter Liggett stopped in 1991 (Stechman 1995), but is scheduled to be resumed in the future, although no date has been set. If the recommendations in the grazing assessment are followed, cattle grazing leases would include most of the extended northern locality of this taxon and all of the second locality in Training Area 25. Only the southernmost locality, at the boundaries of Training Areas 23, 24, and 27, would be completely excluded from cattle use.

Chlorogalum purpureum var. *reductum* is within an active grazing allotment on the LPNF that cattle use from February through May (USFS 1997). The permitted level of use of the allotment by livestock is moderate (USFS 1997). The effects of grazing on this taxon are not known. In 1986 livestock use became a problem when cattle congregated within the population behind a fence built to block vehicle access (The Nature Conservancy 1987). A pipe barrier with low sections was later installed to permit cattle movement over the barriers. Because the period of cattle use coincides with that of growth and flowering of *C. p.* var. *reductum*, it is likely that reproduction would be negatively affected if cattle congregated on the plateau within the locality containing the population for extended periods. In 1995 and 1996, cattle appeared to move relatively rapidly from the locality into lower areas (A. Koch, pers. comm. 1997). In 1997, fecal evidence suggests that they spent relatively more time within the locality (D. Steeck, pers. obs. 1997; A. Koch, pers. comm. 1997). Although current monitoring data are insufficient to evaluate the effects of grazing on *C. p.* var. *reductum*, grazing has the potential to negatively affect reproduction and seedling establishment, and may exacerbate damage already caused by vehicles.

D. *The inadequacy of existing regulatory mechanisms.* Pursuant to the Native Plant Protection Act (Div. 2, chapter 10 sec. 1900 *et seq.* of the California Department of Fish and Game Code) and the California Endangered Species Act (Div. 3, chapter 1.5 sec. 2050 *et seq.*), the California Fish and Game Commission listed *Chlorogalum purpureum* var. *reductum* as rare in 1978. California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires that all impacts be fully mitigated and all measures be capable of successful implementation. These requirements have not been tested; it will take several years before their effectiveness can be evaluated.

Chlorogalum purpureum var. *reductum* occurs primarily on Federal lands managed by the LPNF. State listing provides no consultation or other requirements for protection on Federal lands, although it is USFS policy to work with the State in the conservation of such taxa. The management of sensitive resources on the LPNF is guided by various policies and regulations, including the National Environmental Policy Act (NEPA) of 1969 (Pub.L. 91–109, 42 U.S.C. 4321–4347, 83 Stat. 852), National Forest Management Act (16 U.S.C. 1600 *et seq.*), and the Land and Resource Management Plan for the Los Padres National Forest (1988).

The NEPA requires that the USFS disclose and consider potential environmental impacts of a proposed project. Under new regulations, 10-year grazing permits are subject to the NEPA process. The USFS recently produced an Environmental Assessment (EA) for the grazing allotment where *Chlorogalum purpureum* var. *reductum* occurs (USFS 1997). This EA states that the USFS will monitor the effects of grazing on this taxon. Although NEPA requires disclosure of potential effects of Federal actions, and allows for comment by agencies and the public, it does not, of itself, provide additional protection.

The Land and Resource Management Plan for LPNF (1988) directs the USFS to ensure the viability of sensitive plant species and to emphasize the improvement and protection of habitat for sensitive species in their management activities. These regulations appear to be adequate, but their implementation by the USFS has not been consistent. Unless the points of access are blocked by more permanent means, illegal trespass by vehicles into the habitat of *Chlorogalum purpureum* var. *reductum* is likely to continue. Since the construction of the pipe barriers, it appears that staff and funding have not been adequate to monitor trespassing, repair fencing, or bolster barriers in a timely manner, particularly during the past two years.

Chlorogalum purpureum var. *purpureum* occurs solely on Federal lands managed by Fort Hunter Liggett. The Department of Defense has various policies and directives to guide the management of sensitive natural resources. Army Regulation 200–3 provides for environmental review of projects that might affect sensitive and listed species. Fort Hunter Liggett has had an environmental review process since 1994. *Chlorogalum purpureum* var. *purpureum* is included in this process. In some cases, projects are being modified to reduce impacts to this taxon. For example, an alternative site for a planned bayonet course is being considered to avoid placing it within or directly adjacent to the locality of *C. p.* var. *purpureum*. In other cases, such as the recent construction of the obstacle course and parking areas, projects continue to be sited in occupied habitat and to affect this taxon. In addition, environmental review only occurs for projects that require excavation; bivouacking and vehicle impacts are not covered by this process. The environmental review process does not always allow for assessment surveys to be conducted at the time of year when the plant can be identified (H. Hormann, *in litt.* 1997). For example, surveys for the proposed bayonet course occurred in late summer 1997, when the above-ground portions of the plants were dry and difficult to locate.

Under Army Regulation 200–3, a Species Management Plan for *Chlorogalum purpureum* var.

purpureum has been developed (Hazebrook and Clark 1997). While some of the goals will benefit the taxon if achieved, the actual protection it affords is minimal and based primarily on avoiding impacts to populations "when feasible." To date, no areas where *C. purpureum* var. *purpureum* occurs on the base are off-limits to training. The Service concludes that Army directives, while improving the consideration that this taxon receives on the base, have not yet altered activities to sufficiently reduce the threats posed by military activities.

E. *Other natural or manmade factors affecting its continued existence.* Other factors affecting individuals of this species include military training and changes in fire frequency. Training activities that involve trampling, camping, or driving through occupied habitat are likely to directly crush flowers, fruits, and vegetative parts of *Chlorogalum purpureum* var. *purpureum* and result in diminished reproductive success, lower seedling establishment, and reduced plant vigor. Training activities increase in the spring, around April, and peak in the summer (U.S. Dept. of Army 1997), a period that coincides with flowering and fruiting of the taxon. Seedling establishment may be reduced by direct crushing and also due to changes in soil bulk density and water-holding capacity. Training activities lead to soil compaction and soil disturbance which also encourages the invasion of weedy, nonnative plant species that may compete directly with *C. p.* var. *purpureum*.

Burning at too frequent intervals or during seasons of growth and reproduction may threaten *Chlorogalum purpureum* var. *purpureum* at Fort Hunter Liggett. A spring burn at the southernmost locality on Fort Hunter Liggett in 1995 may have stimulated increased flowering in the spring of 1996. However, the fire destroyed most of the seed crop because it occurred in May, rather than August, when most seeds would have been dispersed (Painter and Neese 1997). Burning at too frequent intervals may damage a population due to the slow growth rate of seedlings, which take from 8 to 15 years to reach reproductive maturity (Judith Jernstedt, University of California at Davis, pers. comm. 1997). In addition, immature plants with small bulbs located near the soil surface may be particularly vulnerable to fires.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the species as threatened. *Chlorogalum purpureum* does not appear to be in danger of extinction throughout all or a significant portion of its range at this time. Threats to the species are primarily associated with unauthorized activity (i.e., vehicle trespass) on USFS lands and military activities due to its location in active training areas and the housing and administration area of an Army base. However, because the Army's environmental directives are increasing the consideration afforded this and other rare plant species on Fort Hunter Liggett and because the USFS has implemented some management actions for this species, the Service determines that threatened status is currently appropriate. The species is not currently in danger of extinction, but is likely to become so if trends of increasing use of its habitat for military training activities continue and if OHV activities increase on USFS lands.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management consideration or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat for *Chlorogalum purpureum* is not prudent. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

The largest sites of *Chlorogalum purpureum* are located at Fort Hunter Liggett military base. Military training and support activities comprise the primary threat to the three localities. The Army is aware of the plant's location and is developing a monitoring program. Designation of these areas as critical habitat would provide no additional protection against threats to the species. On Federal lands managed by the LPNF, suitable habitat for *Chlorogalum purpureum* occurs in a discrete, well-defined area. The primary threat to this population is illegal trespass by OHVs. The USFS is aware of the plant's location and has implemented active management, including construction of fences and barriers as well as monitoring. Designation of this area as critical habitat would add no additional protection against the threats faced by the species. The other known localities of *Chlorogalum purpureum* are small and occur only on private lands where there is very little likelihood of Federal involvement. Designation of critical habitat for this species is, therefore, not prudent because of lack of benefit.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition from willing sellers and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to any proposed or designated critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities

they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or destroy or adversely modify its critical habitat, if any is designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Although this rule treats *Chlorogalum purpureum* at the specific level (i.e., it is proposed as one species rather than as two separate varieties), each of the varieties would be treated as a separate taxonomic entity for the purposes of section 7 consultation and the recovery process, if the species is listed. In other words, the jeopardy standard could be applied to either *C. p.* var. *purpureum* or *C. p.* var. *reductum* as separately identified recovery units.

Federal agencies that may affect the species proposed in this rule through activities they fund, authorize, or carry out are the USFS (at Los Padres National Forest), the Department of the Army (at Fort Hunter Liggett) and, to a much smaller extent, the Federal Highway Administration through funds provided for State highway construction or maintenance.

Chlorogalum purpureum var. *purpureum* occurs wholly on Federal lands managed by the Department of the Army. Activities the Army funds, authorizes, or carries out that could affect this taxon include, but are not limited to, construction and use of training facilities, field training exercises, road construction and maintenance, prescribed burning, fire suppression activities, livestock grazing, and hunting.

Chlorogalum purpureum var. *reductum* occurs primarily on public lands managed by the USFS on Los Padres National Forest. Activities that the USFS funds, authorizes, or carries out that could affect this taxon include grazing, OHV activities, road maintenance, and special use permits authorizing use and the development of management plans for special use areas.

Listing *Chlorogalum purpureum* as threatened will provide for the development of a recovery plan. The plan will bring together Federal, State, and local efforts for the plant's conservation, establishing a framework for cooperation and coordination. The plan will set recovery priorities and describe site-specific management actions necessary to achieve the conservation of the species. Additionally, pursuant to section 6 of the Act, the Service will be more likely to grant funds to affected states for management actions promoting the protection and recovery of the species.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all endangered or threatened plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71 for threatened plants, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction on areas under Federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation, including State criminal trespass law. Section 4(d) of the Act allows for the provision of such protection to threatened species through regulation. This protection may apply to this species in the future if regulations are promulgated. Seeds from cultivated specimens of threatened plants are exempt from these prohibitions provided that their containers are marked "Of Cultivated Origin." Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered or threatened plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. For threatened plants, permits are also available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes of the Act. It is anticipated that few trade permits would ever be sought or issued because this species is not in cultivation or common in the wild. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. For additional information concerning these permits and associated requirements, see 50 CFR 17.72.

Requests for copies of the regulations on listed species and inquiries about prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 NE 11th Avenue, Portland, Oregon 97232–4181 (telephone: 503/231–2063; facsimile: 503/231–6243).

It is the policy of the Service, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the listing on proposed and ongoing activities within the species' range. *Chlorogalum purpureum* occurs on lands under the jurisdiction of the USFS and Department of the Army. Collection of the species on Federal lands is prohibited, although in appropriate cases a Federal endangered species permit may be issued to allow collection. Such activities on areas not under Federal jurisdiction would constitute a violation of section 9 if conducted in knowing violation of California State law or regulations, or in violation of State criminal trespass law. The Service is not currently aware of any otherwise lawful activities being conducted or proposed by the public that will be affected by this listing and result in a violation of section 9. The Service believes that, based upon the best available information, the following actions will not result in a violation of section 9, provided these activities are carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g., grazing management, military activities, road construction and maintenance, prescribed burning, fire suppression activities, hunting, or other land use activities that would significantly modify the species' habitat), when such activity is conducted in accordance with any reasonable and prudent measures given by the Service according to section 7 of the Act;

(2) Casual, dispersed human activities on foot or horseback (e.g., bird-watching, photography, camping, hiking); and

(3) Activities on private lands (without Federal funding or involvement), such as grazing management, residential development, road construction, pesticide/herbicide application, residential landscape maintenance, and pipelines or utility lines crossing suitable habitat.

Questions regarding whether specific activities would constitute a violation of section 9, should this species be listed, should be directed to the Field Supervisor of the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Chlorogalum purpureum*;

(2) The location of any additional populations of the species and the reasons why any habitat should or should not be determined to be critical habitat pursuant to section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of the species; and

(4) Current or planned activities in the subject area and their possible impacts on this species.

A final determination of whether to list this species will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final decision-making document that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and be addressed to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This proposed rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author: The primary author of this proposal is Diane Steeck, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4205; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
*	*	*	*	*	*		*
FLOWERING PLANTS							
*	*	*	*	*	*		*
Chlorogalum purpureum.	Purple amole	U.S.A. (CA)	Liliaceae—Lily	T	.....	NA	NA
*	*	*	*	*	*		*

Dated: March 17, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–8050 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE81

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Four Plants from South Central Coastal California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to list *Cirsium loncholepis* (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* (Gaviota tarplant), and *Lupinus nipomensis* (Nipomo Mesa lupine) as endangered, pursuant to the Endangered Species Act of 1973, as amended (Act). These plants are in danger of extinction because their habitats have been significantly reduced by residential, commercial, and oil and gas development. Their remaining habitats have been adversely affected by development, military activities, alteration of natural fire cycles and the invasion of alien plant species. The limited distribution and small population sizes of these four taxa also make them more vulnerable to extinction from naturally occurring events. Existing regulations do not

provide adequate protection to prevent further losses from ongoing activities. This proposal, if made final, would extend the Act's protection to these plants.

DATES: Comments from all interested parties must be received by May 29, 1998. Public hearing requests must be received by May 14, 1998.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Ventura Fish and Wildlife Office, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Carl Benz, Assistant Field Supervisor, Listing and Recovery, at the above address (telephone: 805/644–1766; facsimile 805/644–3958).

SUPPLEMENTARY INFORMATION:

Background

Cirsium loncholepis (La Graciosa thistle), *Eriodictyon capitatum* (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* (Gaviota tarplant), and *Lupinus nipomensis* (Nipomo Mesa lupine) occur along the south central California coast. They are restricted to a narrow area in western and northern Santa Barbara County and southern San Luis Obispo County.

These taxa occur in sensitive, declining or altered habitats including central dune scrub, central maritime chaparral, valley needlegrass grassland, coastal freshwater wetlands, and southern bishop pine forest (Holland 1986, Schoenherr 1992). Two of these habitats, central dune scrub and coastal freshwater wetlands, are notable for their geological and biological value. The largest coastal dune system in California is located in southern San Luis Obispo County near Guadalupe, where approximately 47 square kilometers (sq km) (18 sq miles (mi)) of active dunes create a series of back dune lakes. The Department of the Interior added the Guadalupe Dune region to the National Natural Landmark system in 1980, recognizing the biological and physical diversity of the area (Schoenherr 1992). Two of the taxa proposed for listing in this rule (*Lupinus nipomensis* and *Cirsium loncholepis)* are restricted to these dunes. Coastal dune habitats are highly disturbed and all remnants have been invaded by alien plant species. Invasive weeds such as *Ehrharta calycina* (veldt grass), *Ammophila arenaria* (European beach grass), *Carpobrotus edulis* (iceplant), and *Mesembryanthemum crystalinum* (crystalline iceplant) are serious threats to the natural ecological processes of coastal sandy habitats and to the viability of these proposed taxa (Smith 1976, Zedler and Scheid 1988, Schoenherr 1992).

Inland from the active dunes, there are remnants of prehistoric uplifted dunes that have formed a weakly cemented sandstone that has weathered to produce a sandy, extremely well drained, and nearly infertile soil (Davis *et al.* 1988). This substrate has a limited distribution, occurring on the following mesas in the area: Nipomo Mesa, Casmalia Hills, San Antonio Terrace, Burton Mesa, Lompoc Terrace and Purisima Hills. The habitat that occurs on the sand hills has been called the maritime chaparral and has been the focus of several studies (Ferren *et al.* 1984, Davis *et al.* 1988, Philbrick and Odion 1988, Davis *et al.* 1989, Odion *et al.* 1992). Two of the populations of *Eriodictyon capitatum* occur in the maritime chaparral. Seven local endemic plant species that occur in this habitat and at least 16 other uncommon plant species are components of a plant community known as the central coast maritime chaparral. This community type is an exceptional biological resource due to the concentration of rare plants found within it; however most of it has been converted to other land uses or is degraded by weed invasion and habitat fragmentation (Davis *et al.* 1988, Odion *et al.* 1992). Central coast maritime chaparral is considered threatened and sensitive by the California Department of Fish and Game's (CDFG) Natural Heritage Division (Holland 1986). The southern bishop pine forest is scattered in the Purisima Hills and occurs largely as a component of the central coast maritime chaparral (Holland 1986).

Cirsium loncholepis (La Graciosa thistle) was first collected by Eastwood in 1906 near the village site of La Graciosa (razed in 1877) in San Luis Obispo County. The original description was published in 1917 by Petrak, who wrote a monograph on the genus *Cirsium* (Abrams and Ferris 1960). *Cirsium loncholepis* is a short-lived (1–2 years), spreading, mound-like or erect and often fleshy, spiny member of the sunflower family (Asteraceae). Plants are from 1 to 10 decimeters (dm) (4 to 40 inches (in)) in height, with one to several stems. The leaves are wavy-margined. The lower leaves are 10 to 30 centimeters (cm) (4 to 12 in) long with spiny petioles and usually deeply lobed with secondary lobes or teeth. The leaf base of the middle and upper leaves forms short, spiny wings along the petiole. The flower heads are in tight clusters at the tips of the stems. Flowering heads are 2 to 4 cm (0.8 to 1.6 in) wide. The corollas are 25 to 30 mm (1 to 1.2 in) long and more or less white with a purplish tube containing purple anthers. This species closely resembles *Cirsium brevistylum* (Indian thistle), a taller plant with the upper portion covered with cobwebby hairs. The leaves of *C. brevistylum* are shallowly lobed, whereas the leaves of *C. loncholepis* are deeply lobed with secondary lobes (Keil and Turner 1993).

Cirsium loncholepis is restricted to back dune and coastal wetlands of southern San Luis Obispo County and northern Santa Barbara County from the Pismo Dunes lake area and south historically to the Santa Ynez River, a distance of about 32 km (20 mi). The Guadalupe Dune complex, in which it occurs, extends inland only up to 3.2 km (2 mi). Deflation areas behind the foredunes often intersect the water table, creating wetlands and back dune lakes. *Cirsium loncholepis* is found in wet soils surrounding the dune lakes and in the moist dune swales, where it is often associated with rush (*Juncus* spp.), tule (*Scirpus* spp.), willow (*Salix* spp.), poison oak (*Toxicodendron diversilobum*), salt grass (*Distichlis spicata*), and coyote brush (*Baccharis pilularis*). The historic distribution of the species included extensive areas in the Orcutt region that have been converted from wetland habitat to agricultural uses or otherwise developed. It is likely that large populations similar to the existing one at the mouth of the Santa Maria River occurred in these areas prior to their conversion. As early as 1950, Smith studied the lack of suitable habitat for *C. loncholepis* in the vicinity of La Graciosa (Abrams and Ferris 1960, Smith 1976). The town of Orcutt is likely built near the site of La Graciosa and historic maps show the area covered with extensive wetlands which no longer exist (Hendrickson 1990).

The species is now restricted to marshes and the edges of willow thickets in damp swales in the Guadalupe dune system (Hendrickson 1990). The majority of the populations in the dune systems are small and isolated and show a reduced reproductive vigor (Hendrickson 1990). Seven of these populations have fewer than 60 plants each (California Natural Diversity Data Base (CNDDB) 1997). Only one population has a substantial number of plants, fluctuating between 6,000 and 54,000 individuals; however, it is located at the mouth of the Santa Maria River in the floodplain, where it

may be vulnerable to catastrophic floods.

Groundwater pumping, oil field development, and competition from alien plants are ongoing threats to this species (Hendrickson 1990, CDFG 1992). Cattle grazing in the riparian habitat at the mouth of the Santa Maria River may reduce the competition from other species (Hendrickson 1990), but the long term effects of livestock use on the habitat are unknown. All known extant populations of *Cirsium loncholepis* are on private lands. The trend for *Cirsium loncholepis* is one of decline (CDFG 1992, CNDDB 1997).

Eriodictyon capitatum (Lompoc yerba santa) was collected by Hoffman in 1932 near Lompoc growing under *Pinus muricata*, and described the following year (Eastwood 1933). *Eriodictyon capitatum* is a shrub in the waterleaf family (Hydrophyllaceae) with sticky stems up to 3 meters (m) (10 feet (ft)) tall. The sticky leaves are narrowly linear. The head-like inflorescence has lavender corollas that are 6 to 15 mm (0.2 to 0.6 in) long. It is distinguished from related species by its narrow, entire leaves and its head-like inflorescence (Halse 1993).

Eriodictyon capitatum occurs in maritime chaparral with bush poppy (*Dendromecon rigida*), scrub oaks (*Quercus berberidifolia, Q. parvula*), and buck brush (*Ceanothus cuneatus*) and in southern bishop pine forests (*Pinus muricata*) that intergrade with chaparral including manzanita (*Arctostaphylos* spp.) and black sage (*Salvia mellifera*) (Smith 1983). The four known populations of *E. capitatum* occur in western Santa Barbara County. Two of these, composed of three colonies, are on Vandenberg Air Force Base (VAFB). The other two populations are located in the oilfields south of Orcutt (one colony), and at the western end of the Santa Ynez Mountains (three colonies). The latter populations are on private land. Based on isozyme analysis, Elam (1994) determined that all of the Santa Ynez Mountains colonies and two of the VAFB colonies were multiclonal. The other two VAFB colonies are uniclonal. The Orcutt colony was not studied due to inaccessibility. A clone is composed of many stems produced by the vegetative spread of the root system. The three Santa Ynez Mountains colonies had a total of 48 clones. The three VAFB colonies had a total of 19 clones. *Eriodictyon capitatum* is self-incompatible (i.e., it requires pollen from genetically different plants to produce seed) and its fruits are parasitized by an insect (Elam 1994). A study of one of the uniclonal colonies at VAFB showed that *E. capitatum* resprouted successfully from the base of the plant after a prescribed fire. However, several stems died, no seedling recruitment occurred, and there was heavy damage from herbivory (Jacks *et al.* 1984).

Fire management practices, invasive non-native plant species, low seed productivity, and naturally occurring events pose significant threats to the long-term survival of this species. None of the colonies is actively protected. *Eriodictyon capitatum* was listed as rare by the State of California in 1979 (CDFG 1992).

Hemizonia increscens ssp. *villosa* (Gaviota tarplant) is member of the sunflower family. Tanowitz (1982) described this plant from collected material as well as a specimen gathered in 1902 by Elmer from Gaviota. *Hemizonia increscens* ssp. *villosa* is a yellow-flowered, gray-green, soft hairy annual that is 3 to 9 dm (12 to 35 in) tall with stems branching near the base. The lower leaves are 5 to 8.5 cm (2 to 3.4 in) long and gray-green. The inflorescence is rounded to flat-topped with 13 ray flowers and 18 to 31 usually sterile disk flowers. Two other subspecies, *H. i.* ssp. *increscens* and *H. i.* ssp. *foliosa*, differ from *H. i.* ssp. *villosa* by their stiff-bristly, deep green foliage (Keil 1993).

Hemizonia increscens ssp. *villosa* has a highly localized distribution in western Santa Barbara County, where it is associated with needlegrass grasslands dominated by the non-native wild oat (*Avena* spp.) and occasional native purple needle grass (*Nassella* spp.) that intergrade with coastal sage scrub composed of California sagebrush (*Artemisia californica*), coyote bush (*Baccharis pilularis*), and sawtooth golden bush (*Hazardia squarrosa*). Its habitat lies on an uplifted, narrow marine terrace 46 to 60 m (150 to 200 ft) above sea level. The plant is restricted to Conception and Milpitas-Positas soils, which consist of acidic, fine sandy loams (AAPC 1990). A subsurface clay layer 46 to 90 cm (18 to 36 in) deep may serve as a reservoir of soil moisture in an area otherwise characterized by summer drought (Howald 1989).

Hemizonia increscens ssp. *villosa* is known only from a narrow, 3.6 km (2.2 mi) long band of coastal terrace situated between the Santa Ynez Mountains and the ocean near Gaviota, 24 km (15 mi) west of Santa Barbara. Within this band, a total of about 24 hectares (ha) (60 acres (ac)) of habitat occurs with approximately 20 colonies of the taxon. The colonies are often separated by no more than 100 m (330 ft), and represent one extended population (Howald 1989). Other pockets of Conception and Milpitas-Positas soils occur along the coast to the west and east of Gaviota, where the vegetation continues to be altered by development, cattle grazing, and farming. Extensive repeated surveys have been conducted without success in these areas and it is not likely that additional plant populations will be found (Howald 1989). As is typical of annual plant species, the number of individuals present from one year to the next varies dramatically, depending on climatic conditions and other factors. There are some years when colonies may contain few to no individuals (Howald 1989). In 1995, the taxon was not abundant at any location (Kathy Rindlaub, pers. comm. 1995).

The narrow coastal terrace is bisected lengthwise by Highway 101, a railroad, and several pipelines. Most of the habitat for *Hemizonia increscens* ssp. *villosa* lies on the north side of the highway on private lands owned primarily by Texaco and Chevron. A few colonies occur on the south side of Highway 101 on land owned by the California Department of Parks and Recreation (Gaviota State Park) that are leased and managed by Texaco. In 1995, there were no individuals in the colony at the Texaco facility (K. Rindlaub, pers. comm. 1995).

Hemizonia increscens ssp. *villosa* is threatened by destruction of individual plants, habitat loss, and degradation from the development of oil and gas facilities, including pipelines, and competition with alien weeds. The recent trend for this taxon is one of decline (CDFG 1992).

Lupinus nipomensis (Nipomo mesa lupine) was collected in 1937 by Eastwood and Howell from Nipomo Mesa, San Luis Obispo County; Eastwood subsequently published a description of the species (Eastwood 1939). Although Munz (Munz and Keck 1973) submerged *L. nipomensis* as a synonym of *L. concinnus*, other floras, including the most recent treatment, recognize *L. nipomensis* as a species (Abrams 1944, Riggins 1993). *Lupinus nipomensis* is an annual member of the pea family (Fabaceae). It is 1 to 2 dm (4 to 8 in) tall and hairy with decumbent stems. The leaves, with 5 to 7 leaflets, are 10 to 15 mm (0.4 to 0.6 in) long and 5 to 6 mm (0.2 to 0.3 in) wide. The inflorescence is not whorled and the flowers are 6 to 7 mm (0.2 to 0.3 in) long with pink petals. *Lupinus nipomensis* is distinguished from the related *L. concinnus* by its decumbent inflorescence, succulent leaflets, lack of axillary flowers, and its restriction to sand dune habitat (Walters and Walters 1988).

Lupinus nipomensis grows in stabilized back dune habitat of the Guadalupe dunes in the southwestern corner of San Luis Obispo County. The plant occurs as 1 extended population in 5 colonies with fewer than 700 plants. The small patches are spread over 2.4 km (1.5 mi). At least three historical localities have been extirpated, including its type locality (CDFG 1992, CNDDB 1997). The majority of the habitat is considered degraded by either physical disturbance or invasion by non-native weedy species (Walters and Walters 1988). Even the high quality habitat is adversely affected by impacts from non-native invasive species. The occurrences in best condition are situated in dune swales and contain a higher diversity of native annuals in the vicinity of widely spaced individuals of mock heather (*Ericameria ericoides*), a small native subshrub. In both types of habitat, *L. nipomensis* requires pockets of bare sand, suggesting a low tolerance for competition (Walters and Walters 1988).

All known occurrences of *Lupinus nipomensis* are on private lands and remain unprotected. The primary threat to the species is the uncontrolled invasion of aggressive non-native weeds and the subsequent displacement of the species. The plant was listed by the State as endangered in 1987 and the recent trend is one of decline (CDFG 1992).

Previous Federal Action

Federal action on these plants began as a result of section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94–51) was presented to Congress on January 9, 1975, and included *Cirsium loncholepis* and *Eriodictyon capitatum* as endangered. The Service published a notice in the July 1, 1975, **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context of section 4(c)(2) (petition provisions are now found in section 4(b)(3)) of the Act and its intention to review the status of the plant taxa named therein.

On June 16, 1976, the Service published a proposal in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. *Cirsium loncholepis* and *Eriodictyon capitatum* were included in the June 16, 1976, **Federal Register** publication. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to those proposals already more than 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal along with four other proposals that had expired.

The Service published an updated Notice of Review for plants on December 15, 1980 (45 FR 82480). This notice included *Cirsium loncholepis*, *Eriodictyon capitatum*, and *Lupinus nipomensis* as category 1 candidate species. Category 1 candidates were formerly defined as taxa for which the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals, but issuance of the proposed rule was precluded by other pending listing proposals of higher priority. On November 28, 1983, the Service published a supplement to the Notice of Review in the **Federal Register** (48 FR 53640), in which *Cirsium loncholepis* and *Lupinus nipomensis* were included as category 2 candidates. Category 2 formerly included taxa for which information in the possession of the Service indicated that proposing to list as endangered or threatened was possibly appropriate, but for which sufficient data on biological vulnerability and threats were not available to support proposed rules.

The plant Notice of Review was again revised on September 27, 1985 (50 FR 39526). In this notice, *Eriodictyon capitatum* was included as a category 1 candidate, and *Cirsium loncholepis* and *Lupinus nipomensis* remained category 2 candidates. On February 21, 1990 (55 FR 6184), and September 30, 1993 (58 FR 51144), revised Notices of Review were published that included *Cirsium loncholepis*, *Eriodictyon capitatum*, *Hemizonia increscens* ssp. *villosa*, and *Lupinus nipomensis* as category 1 candidates. On February 28, 1996, the Service published a Notice of Review in the **Federal Register** (61 FR 7596) that discontinued the designation of category 2 species as candidates. That notice included as candidates only those taxa meeting the former definition of category 1, and included the four taxa in this proposed rule. They maintained candidate status in the Notice of Review published on September 19, 1997 (62 FR 49398).

The processing of this proposed rule conforms with the Service's final listing priority guidance for fiscal year 1997, published in the **Federal Register** on December 5, 1996 (61 FR 64475). In a **Federal Register** notice published on October 23, 1997 (62 FR 55628), the guidance was extended beyond fiscal year 1997 until such time as the fiscal year 1998 appropriations bill for the Department of the Interior becomes law and new final guidance is published. The fiscal year 1997 guidance clarifies the order in which the Service will process rulemakings following two related events: (1) The lifting on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Pub. L. 104–6), and (2) the restoration of significant funding for listing through passage of the Omnibus Budget Reconciliation Act on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. Based on biological considerations, this guidance establishes a "multi-tiered approach that assigns relative priorities, on a descending basis, to actions to be carried out under section 4 of the Act" (61 FR 64479). The guidance calls for giving highest priority to handling emergency situations (Tier 1) and second highest priority (Tier 2) to resolving the listing status of the outstanding proposed listings. Tier 3 includes the processing of new proposed listings for species facing high magnitude threats. This proposed rule falls under Tier 3, since the taxa all have listing priority numbers of 2 or 3. The guidance states that "effective April 1, 1997, the Service will concurrently undertake all of the activities presently included in Tiers 1, 2, and 3" (61 FR 64480). The Service has thus begun implementing a more balanced listing program, including processing more Tier 3 activities. The completion of this Tier 3 activity follows those guidelines.

Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cirsium loncholepis* Petrak (La Graciosa thistle), *Eriodictyon capitatum* Eastw. (Lompoc yerba santa), *Hemizonia increscens* ssp. *villosa* B.D. Tanowitz (Gaviota tarplant), and

Lupinus nipomensis Eastw. (Nipomo Mesa lupine) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Habitat fragmentation and alteration of species composition and vegetation structure threaten the long term survival of all of the taxa in this rule. The taxa in this rule have extremely limited natural distributions (*Eriodictyon capitatum* and *Hemizonia increscens* ssp. *villosa*) or reduced distributions resulting from loss of habitat (*Cirsium loncholepis* and *Lupinus nipomensis*).

Eriodictyon capitatum is associated with the central maritime chaparral and bishop pine, threatened habitat types with limited distribution, and rich in plant species of limited distribution (Holland 1986). Most central maritime chaparral has been converted to a variety of land uses, and degraded by development, weed invasion, habitat fragmentation and other factors (Hoover 1970, Davis *et al.* 1988, Odion *et al.* 1992, CNDDB 1997). Ice plant invasion threatens to convert the maritime chaparral into a habitat dominated by mats of the exotic succulent (Odion *et al.* 1992). Ice plant was documented as an invasive in habitat occupied by *E. capitatum* following a prescribed fire (Jacks *et al.* 1984). Veldt grass was seeded in controlled burns and used for soil stabilization at VAFB and has become widespread and naturalized (Smith 1976, Jones and Stokes 1997). Comparison of historic and current photographs show no veldt grass in 1973, whereas in 1997 the same site was dominated by veldt grass (Chris Gillespie, VAFB, pers. comm. 1997).

Department of Defense base closures across the nation have resulted in the relocation of activities to those bases that remain operational. Facility maintenance and development for military and private commercial purposes planned at VAFB are likely to result in additional loss and alteration of habitat for *Eriodictyon capitatum* (Al Naydal, VAFB, pers. comm. 1993). There is considerable competition for use of the commercial spaceport on the base (25 to 30 companies) and launches are anticipated to occur every two weeks (C. Gillespie, pers. comm. 1995). Missile launch operations can adversely affect habitats surrounding launch facilities. In 1993, a missile destroyed shortly after launching at VAFB started brush fires caused by burning rocket fuel and also caused physical damage from large fragments of metal blasted downward toward the ground (Wallace 1993). In September 1997, a 200 ha (500 ac) fire ignited near an active missile silo and a 600 ha (1,500 ac) fire burned near occupied habitat of *Eriodictyon capitatum* (Los Angeles Times 1997a; J. Watkins, pers. comm. 1997). Wildfire containment lines in the vicinity of the species were observed after the fire (J. Watkins, pers. comm. 1997). On November 1, 1997, a 495 ha (1,225 ac) fire accidentally set by an explosives disposal team was partially contained by back burning the entire 35th Street population of *E. capitatum* (Los Angeles Times 1997b). Invasion by aggressive alien plant species occurs after fire in the maritime chaparral habitats (see factor E below). The expected increase in launch activities is likely to result in an increase in fires.

Hemizonia increscens ssp. *villosa* occurs within a narrow 3.6 km (2.25 mi) band of coastal terrace grassland about 24 ha (60 ac) in extent. About 40 percent of the coastal terrace habitat within the known range of *H. i.* ssp. *villosa* has been destroyed, altered, or fragmented by the construction of oil and gas facilities and pipelines. Projects during the past five years within the taxon's habitat include the installation of a water pipeline for the relocated Vista del Mar school, and construction of the Pacific pipeline (oil), the Mariposa pipeline (oil/gas), and the Molina drilling station. Molina Energy Company is developing a project to extract petroleum from three offshore natural gas reserves at an onshore drilling and production site. The Molina parcel contains the single largest continuous population of *H. i.* ssp. *villosa* (M. Meyer, pers. comm. 1996). Maintenance of pipelines and facilities will continue to disturb habitat for the taxon and facilitate the establishment of invasive weed species. Because the Santa Ynez Mountains rise sharply only 0.15 km (0.25 mi) inland from the coastline, the relatively flat coastal terrace forms a natural corridor for any utility project passing between the Gaviota Pass to the west and Santa Barbara to the east. All future projects that pass through this corridor are highly likely to adversely affect habitat for *H. i.* ssp. *villosa* by further destroying, degrading, and fragmenting habitat. The highest quality habitat remains unprotected and lies within this pipeline corridor. In attempts to mitigate habitat loss, a mitigation management area has been established by the oil industry; however, it protects less than five percent of the habitat. Because invasive species must be managed intensively to prevent their dominance, it is questionable whether this management area can sustain a colony of *Hemizonia* without ongoing intensive maintenance (K. Rindlaub, pers. comm. 1995). The trend for the taxon is one of decline (CDFG 1992).

The Guadalupe Dunes, which contain occurrences of *Cirsium loncholepis* and *Lupinus nipomensis*, have been extensively developed and altered for petroleum extraction (Rindlaub *et al.* 1985). About one-third of the historic occurrences of *C. loncholepis* have been extirpated (CDFG 1992). While the future extent of development and habitat alteration is unknown at this time, continued energy-related operations, including maintenance activities, hazardous waste clean-up, and other commercial development that result in additional habitat modification, remain a predominant threat (CDFG 1992). Ground water extraction in the Guadalupe Dunes and vicinity is thought to have diminished the total area of suitable habitat of *C. loncholepis* by lowering the water table and drying the wetlands (Smith 1976, Hendrickson 1990, CDFG 1992). Hydrological alterations remain a significant threat to this taxon (CDFG 1992). At least three historic populations of *Lupinus nipomensis*, including the type locality, have been extirpated. Development, along with invasion by alien plant species (see factor E below), are the primary threats to this species (CDFG 1992).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a factor affecting the taxa in this rule.

C. Disease or Predation

Disease is not known to be a factor affecting any of the taxa in this rule. Herbivory by pocket gophers (*Thomomys bottae*) has been documented to consume whole colonies of *Lupinus nipomensis* and is considered a major threat (Walters and Walters 1988). Veldt grass provides a year-round food source for the pocket gopher, thus creating artificially high densities of gophers and increased predation pressure upon *L. nipomensis*. Veldt grass was observed to be increasing during the course of a three-year monitoring program for *L. nipomensis* and is forming pure stands in the backdune habitat of *L. nipomensis* (Walters and Walters 1988). This increase in food source exacerbates the threat posed by pocket gopher predation.

Several invertebrate species have been documented as predators of *Lupinus nipomensis*, reducing the vigor and seed production of this species. The most significant predator is an anthomyid fly

(*Hylemya lupini* Coquillett) whose larvae burrow into the terminal inflorescence, reducing seed production and sometimes killing the entire plant (Walters and Walters 1988). Other invertebrate predators noted are mites, the caterpillars of the common painted lady butterfly (*Vanessa carduí*) and a noctuid moth that feed on leaves, a tent-building microlepidopteran larva (family Pyralidae) that causes leaf damage, and a lupine blue butterfly larva (*Plebejus lupini monticola* Clemence) that feeds on seed pods (Walters and Walters 1988). Predation by these taxa does not threaten the species in and of itself, but because of the limited range and small population size, predation in combination with other threats could adversely affect population viability.

Cattle grazing occurs within the habitats of *Cirsium loncholepis* and *Hemizonia increscens* ssp. *villosa*. Low levels of grazing may enhance the opportunities for both taxa to propagate successfully, as it may serve to reduce competition from other native species. Nevertheless, recent evidence indicates that heavy grazing has affected individuals of *H. increscens* ssp. *villosa* by reducing their stature and reducing the number of seeds that can be produced (AAPC 1990). Similar observations were made in the Guadalupe dunes and along the Santa Maria River where *C. loncholepis* was adversely affected (Hendrickson 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

The California Fish and Game Commission has listed *Eriodictyon capitatum* as rare, *Cirsium loncholepis* as threatened, and *Hemizonia increscens* ssp. *villosa* and *Lupinus nipomensis* as endangered under the Native Plant Protection Act (NPPA) (chapter 1.5 sec. 1900 *et seq.* of the California Fish and Game Code) and the California Endangered Species Act (CESA) (chapter 1.5 sec. 2050 *et seq.*). California Senate Bill 879, passed in 1997 and effective January 1, 1998, requires individuals to obtain a section 2081(b) permit from CDFG to take a listed species incidental to otherwise lawful activities, and requires that all impacts be fully mitigated and all measures be capable of successful implementation. These requirements have not been tested; it will be several years before their effectiveness can be evaluated. In the past, attempts to mitigate rare plant populations have largely failed (Howald 1993).

The California Environmental Quality Act (CEQA) requires a full disclosure of the potential environmental impacts of proposed projects. The public agency with primary authority or jurisdiction over the project is designated as the lead agency, and is responsible for conducting a review of the project and consulting with the other agencies concerned with the resources affected by the project. Section 15065 of the CEQA Guidelines requires a finding of significance if a project has the potential to "reduce the number or restrict the range of a rare or endangered plant or animal." Once significant effects are identified, the lead agency has the option to require mitigation for effects through changes in the project or to decide that overriding considerations make mitigation infeasible. In the latter case, projects may be approved that cause significant environmental damage, such as destruction of listed species. Protection of listed species through CEQA is, therefore, dependent upon the discretion of the agency involved.

State agencies reviewing requests for large development projects are required by CEQA to conduct surveys of the biological resources of a project site. Most public documents such as Environmental Impact Reports are prepared by the project proponent for the State agency. Sensitive species located during surveys are to be reported to the CNDDB, which is maintained by the CDFG Natural Heritage Division. If, however, the project proponent considers the information proprietary, consulting biologists may not report to the CNDDB.

One of the taxa in this proposal, *Cirsium loncholepis*, could potentially be affected by projects requiring a permit under section 404 of the Clean Water Act. Perennial freshwater emergent marshes and back dune wetlands are generally small and scattered, and treated as isolated wetlands or waters of the United States for regulatory purposes by the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (CWA). However, the CWA by itself does not protect *Cirsium loncholepis*. For example, Nationwide Permit No. 26 (33 CFR part 330 Appendix B (26)) was established by the Corps to facilitate issuance of permits for discharge of fill into wetlands up to 3 ac (1.2 ha). For project proposals falling under Nationwide Permit 26, the Corps seldom withholds authorization unless a listed threatened or endangered species' continued existence would likely be jeopardized by the proposed action, regardless of the significance of other wetland resources. Current section 404 regulations require an applicant to obtain an individual permit to fill isolated wetlands or waters larger than 3 ac (1.2 ha). In either case, candidate species receive no special consideration. Additionally and equally important, the upland watersheds that contribute significantly to the hydrology of marshes are not provided any direct protection under section 404. Alterations of hydrology resulting from groundwater pumping are thought to pose the most likely and serious threat to *C. loncholepis*. No permit is required under the CWA for groundwater pumping. As a consequence, the habitat of *C. loncholepis* receives insufficient protection under section 404 of the CWA.

Although several public agencies manage lands with occurrences of these and other sensitive, threatened and endangered species, none of those agencies have specific management plans for the taxa proposed for listing in this rule. Serious threats to the habitats of all of the plants in this rule persist that are not currently being addressed with active management (see factor E below). The CDFG has prepared an unpublished management plan for the State-listed *Cirsium loncholepis* (Morey 1990), but its recommendations have not yet been implemented.

Mitigation performed to satisfy CESA requirements for *Hemizonia increscens* ssp. *villosa* (State-listed endangered) has included salvaging seedbank and topsoil for transfer to a habitat creation site, seeding of areas disturbed by facility and pipeline construction, and enhancement of areas with low density of this taxon (AAPC 1990). These experimental mitigation measures are in progress and the long-term success of treatments will not be known for years. As of 1995, none of the sites showed success (K. Rindlaub, pers. comm. 1995). *Hemizonia increscens* ssp. *villosa* does not compete well with other annual species and long-term survival of relocated plants requires intensive maintenance. These experimental mitigation measures focus on reintroducing the plant and not necessarily reestablishing the other elements of the habitat that would maintain the plant in perpetuity. If the original habitat has been destroyed and the mitigation fails, there is an irretrievable loss of the resource.

E. Other Natural or Manmade Factors Affecting Their Continued Existence

Other threats to the taxa in this rule include displacement by non-native weeds, altered fire regimes, facility accidents, small population size, and loss of reproductive vigor. The most severe threat to the taxa in this rule is the active invasion and subsequent

modification or conversion of habitat and displacement of native species by aggressive alien weeds such as European beach grass, iceplant, veldt grass, and crystalline iceplant (Davis *et al.* 1988, Zedler and Schied 1988, Morey 1989, Walters and Walters 1989a, Odion *et al.* 1992, CNDDB 1997). Current research and management approaches are inadequate to provide control for the problem of alien plant invasions (Hobbs and Humphries 1995, Schierenbeck 1995). The California Exotic Pest Plant Council (CalEPPC) has compiled a list of the exotic pest plants of greatest ecological concern in California. The list categorizes the most invasive wildland pest plants that threaten native plants and natural habitats as list A–1, widespread pest plants, and list A–2, regional pest plants. *Ammophila arenaria* and *Carpobrotus edulis* are on list A–1 and *Ehrharta calycina* is on list A–2 (CalEPPC 1994). All of the habitats for the taxa in this rule are fragmented and dissected by roads and pathways that are the principal corridors for introduction of these weedy species (Odion *et al.* 1992).

Carpobrotus edulis, widely disseminated in the feces of deer and rabbits, tends to displace native plant species, particularly after fire or mechanical disturbance. *Carpobrotus edulis* has invaded native vegetation occupied by *Eriodictyon capitatum* after a prescribed fire, resulting in a documented increase in iceplant cover from negligible to 26 percent 3 years after the fire. This increase was attributed to post-fire seedling production of over 7,800 iceplant seedlings per ha (2,800 per ac) the year after the fire, with a survivorship of over 70 percent 3 years later (Zedler and Schied 1988). After establishment, each plant can grow to over 6 m (18 ft) in diameter (Vivrette 1993), virtually replacing all other vegetation. The Air Force is currently conducting prescribed burns on VAFB for fuels management without a program to control the subsequent invasion of weedy species (James Watkins, pers. comm. 1997). There is an effort to occasionally apply herbicides to a burn area; however, it is ineffective without follow-up measures to ensure the control of the invasive species. Because fire is inevitable in natural habitats, and prescribed burns are utilized for hazard fuels reduction, iceplant and other invasive weed invasions will continue to degrade habitat and adversely influence *Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis.*

Other invasive plants, including Atriplex semibaccata (Australian saltbush), *Ehrharta calycina,* and *Avena* spp. threaten *Hemizonia increscens* ssp. *villosa* by displacement and the build-up of thatch (accumulated dead leaves and stems). *Hemizonia increscens* ssp. *villosa* requires open habitat in which to germinate and become established. Thatch from the alien grass species that dominate the habitat effectively prevents its establishment (K. Rindlaub, pers. comm. 1995).

Ehrharta calycina is actively invading occupied habitat of *Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* (Zedler and Schied 1988, Morey 1989, Walters and Walters 1989a, Wickenheiser and Morey 1990). This alien grass has a mass of roots that captures the majority of the moisture, effectively outcompeting the native vegetation and dominating habitats as a monoculture (David Chipping, California Native Plant Society, pers. comm. 1997). The density of *E. calycina* continues to increase and displace *L. nipomensis* (Bonnie Walters, California Polytechnic State University, pers. comm. 1997).

Eriodictyon capitatum and *Hemizonia increscens* ssp. *villosa* occupy habitats that experience periodic fires. Fire is an important component of natural ecosystems in California wildland habitats and suppression of natural fires facilitates ecosystem degradation (Schoenherr 1992, Keeley 1995). All recent fires in the central maritime chaparral are human-caused, resulting from arson, prescribed management, or accidental ignition (Philbrick and Odion 1988). The highly fragmented nature of the remaining chaparral habitat has ended the occurrence of large wildland fires that burn under natural conditions in the coastal chaparral areas considered in this rule. Natural fire frequencies and intensities are not known, but estimates of burn intervals exceed 30 years. The use of prescribed burning as a management technique is restricted to periods when environmental conditions are favorable to preventing the spread of escaped fire, thus preventing a normal, wildland fire-spread situation. Wildland fire-spread occurs during high wind events that force the fire quickly through a stand of fuel, resulting in short burn durations and generally cooler ground temperatures. Prescribed fire behavior does not mimic natural conditions, since low wind speed is required for control of the fire. This causes an increase in the duration and intensity of the fire and results in higher mortality of seeds in the soil and reduced post-fire species diversity (Odion *et al.* 1992, Keeley 1995). Additionally, burned habitats are rapidly invaded by non-native species that alter the type and structure of the fuel (Odion et al. 1992).

Petroleum-processing plant catastrophes are rare events but have the potential to threaten the long-term survival of *Hemizonia increscens* ssp. *villosa* and *Lupinus nipomensis,* which have the smallest distributions of the taxa in this rule. All known individuals of *H. i.* ssp. *villosa* are contained within a 3.2 km (2 mi) radius and all known locations for *L. nipomensis* occur within a 1.2 km (0.75 mi) radius of oil and gas refineries and associated storage facilities. The Chevron Gaviota Processing Facility, managed by at least 12 operating companies to consolidate pipelines and treating plants, is at the center of the distribution of *H. i.* ssp. *villosa.* The Santa Maria UNOCAL refinery and storage facilities are near the center of the distribution of *L. nipomensis.* These facilities occur in a tectonically complex and active region that is characterized by moderate to locally high historic seismicity, which can result in facility catastrophes (AAPC 1990). In the event of a facility catastrophe, the resulting habitat modification could destroy populations or cause the extinction of taxa with such extremely limited distribution.

Cirsium loncholepis at Mud Lake has been destroyed by herbicide application on poison oak (Hendrickson 1990, CNDDB 1997). The significance of herbicide application as a threat to the survival of *C. loncholepis is* unknown.

By virtue of the limited number of individuals or range of the existing populations, the taxa proposed in this rule are highly vulnerable to naturally occurring events. Loss of genetic variability may decrease the ability of these taxa to survive within the environment, and is frequently manifested in depressed reproductive vigor (Karron 1991). *Eriodictyon capitatum* is self-incompatible and produces few viable seeds. In two colonies of this species, each composed of a single genetic unit, there is virtually no seed production (Elam 1994). Seeds of *Cirsium loncholepis* have been shown to be of limited viability in its small back dune populations (Hendrickson 1990). Because of the small population size, this vulnerability is exacerbated by natural events such as drought, flooding, fires, earthquakes, outbreaks of insects or disease, or other catastrophic events that could destroy a significant percentage of the individuals of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose

this rule. Based on this evaluation, the preferred action is to propose listing *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* as endangered. The habitats for these taxa have been much reduced due to residential, commercial, and oil and gas development. These taxa continue to face threats from development, military activities, alteration of natural fire cycles, and invasion of non-native species. The limited habitat for the four taxa and their small population sizes make *Cirsium loncholepis, Eriodictyon capitatum, Hemizonia increscens* ssp. *villosa,* and *Lupinus nipomensis* particularly vulnerable to extinction from naturally occurring events. Existing regulations do not provide adequate protection to prevent further losses; many actions adversely affecting these taxa and their habitats are ongoing. Because the four plant taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the Act's definition of endangered.

Critical Habitat

Critical habitat is defined in section 3 of the Act as: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection and; (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon the determination that such areas are essential for the conservation of the species. "Conservation" means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, as amended, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Service regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of threat to the species, or (2) such designation of critical habitat would not be beneficial to the species.

None of the known occurrences of *Cirsium loncholepis* are on Federal land (CNDDB 1997). Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. The primary habitat elements essential for conservation of this species at all other historical sites have been destroyed by development and agriculture (CNDDB 1997). Although *C. loncholepis* is a wetland species and alteration of its habitat may be regulated by the Corps under section 404 of the CWA, current protection under section 404 is inadequate (see factor D in the "Summary of Factors Affecting the Species" section above). The Service believes that activities regulated under section 404 that could impact the habitat of *C. loncholepis* are unlikely to occur, and that this species is primarily threatened by unregulated hydrological alterations, competition from alien plants, and trampling and herbivory by livestock and wildlife. Moreover, the inadequacies of the section 404 permitting process for protecting very small plant populations, discussed in detail under factor D of the "Summary of the Factors" section above, apply to this species. In addition, because of the small size of the populations of this species and the lack of historical habitat elsewhere, any activities that would be regulated under section 404 of the CWA and cause adverse modification of its habitat would also likely jeopardize its continued existence. Designation of critical habitat for *C. loncholepis* is therefore not prudent because it provides no additional benefit to the species beyond that conferred by listing under section 7 of the Act.

Two of the four populations of *Eriodictyon capitatum* occur on private lands with very little likelihood of Federal involvement. Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. The other two populations, consisting of three colonies, occur on VAFB. Two of these three colonies are uniclonal, making them highly vulnerable to naturally occurring events. All populations are extremely small and the Service believes that any adverse modification of designated critical habitat for this species would also be likely to jeopardize the species under section 7 of the Act. Because the Department of Defense is aware of this species and its locations on VAFB, and must consult with the Service on any activities likely to affect these populations once the species is listed, there would be no additional benefits to the species from designation of critical habitat beyond those conferred by listing itself. Designation of critical habitat is therefore not prudent for *Eriodictyon capitatum* because of lack of benefit.

Hemizonia increscens ssp. *villosa* is known only from one population on private land where there is very little likelihood of Federal involvement. Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. Designation of critical habitat for *Hemizonia increscens* ssp. *villosa* is therefore not prudent because of a lack of benefit.

Only a single population of *Lupinus nipomensis* is known to be extant. The only other known occurrence was extirpated by land conversion. The plant occurs only on private lands with very little likelihood of Federal involvement. Critical habitat designation only applies to Federal lands or lands on which there is Federal activity. No Federal lands occur within the historical range of the species. Designation of critical habitat for *Lupinus nipomensis* is therefore not prudent because of a lack of benefit.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and local agencies, private organizations, and individuals. The Act provides for possible land acquisition from willing sellers and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to any proposed or designated critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat,

if any is designated. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

VAFB will likely become involved with two of these plant taxa through the section 7 consultation process. While no activities are known at this time, future activities may affect populations of or habitat for *Cirsium loncholepis* and *Eriodictyon capitatum*. The Corps might become involved with *C. loncholepis* through its permitting authority as described under section 404 of the CWA, although the Service believes that activities regulated under section 404 are not a likely threat to this species. As previously discussed, nationwide or individual permits cannot be issued when a federally listed endangered or threatened species would be affected by a proposed project without first completing a section 7 consultation with the Service.

The Act and its implementing regulations set forth a series of general prohibitions and exceptions that apply to all threatened and endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 for endangered plants apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale in interstate or foreign commerce, or remove and reduce the species to possession from areas under Federal jurisdiction. In addition, for plants listed as endangered, the Act prohibits the malicious damage or destruction of areas under federal jurisdiction and the removal, cutting, digging up, or damaging or destroying of such plants in knowing violation of any State law or regulation including State criminal trespass law. Certain exceptions to the prohibitions apply to agents of the Service and State conservation agencies.

The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances. Such permits are available for scientific purposes and to enhance the propagation or survival of the species. It is anticipated that few trade permits would ever be sought or issued because these species are not in cultivation or common in the wild. Information collections associated with these permits are approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. For additional information concerning these permits and associated requirements, see 50 CFR 17.62. Requests for copies of the regulations concerning listed plants and general inquiries regarding prohibitions and permits may be addressed to the U.S. Fish and Wildlife Service, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

It is the policy of the Service, published in the **Federal Register** (59 FR 34272) on July 1, 1994, to identify to the maximum extent practicable those activities that would or would not be likely to constitute a violation of section 9 of the Act if a species is listed. The intent of this policy is to increase public awareness of the effect of the species' listing on proposed and ongoing activities within its range. The Service believes that, based upon the best available information, the following actions would not result in a violation of section 9, provided these activities were carried out in accordance with existing regulations and permit requirements:

(1) Activities authorized, funded, or carried out by Federal agencies (e.g., military activities, grazing management, agricultural conversions, wetland and riparian habitat modification, flood and erosion control, residential development, recreational trail development, road construction and maintenance, hazardous material containment and cleanup activities, prescribed burns, pesticide/herbicide application, pipelines or utility line crossing suitable habitat, other land use activities that would significantly modify the habitat of the taxa) when such activity is conducted in accordance with any reasonable and prudent measures given by the Service according to section 7 of the Act; or when such activity does not occur in habitats suitable for the survival and recovery of the four taxa proposed in this rule and does not alter the hydrology or habitat supporting those taxa.

(2) Casual, dispersed human activities on foot or horseback (e.g., camping, hiking, bird-watching, sightseeing, photography).

(3) Activities on private lands (without Federal funding or involvement), such as grazing management, agricultural conversions, wetland and riparian habitat modification (not including filling of wetlands), flood and erosion control, residential development, road construction, pesticide/herbicide application, residential landscape maintenance, and pipelines or utility lines crossing suitable habitat.

The Service believes that the actions listed below might potentially result in a violation of section 9; however, possible violations are not limited to these actions alone:

(1) Unauthorized collecting of the taxa on Federal lands.

(2) Application of herbicides violating label restrictions.

(3) Interstate or foreign commerce and import/export without previously obtaining an appropriate permit. Permits to conduct activities are available for purposes of scientific research and enhancement of propagation or survival of the species.

Questions regarding whether specific activities, such as changes in land use, would constitute a violation of section 9, should these taxa be listed, should be directed to the Field Supervisor of the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. The Fish and Wildlife Service will follow its peer review policy (July 1, 1994; 59 FR 34270) in the processing of this rule. Comments are particularly sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these taxa;

(2) The location of any additional populations of these taxa and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range, distribution, and population size of these taxa; and

(4) Current or planned activities in the subject area and their possible impacts on these taxa.

A final determination of whether to list these taxa will take into consideration the comments and any additional information received by the Service. Such communications may lead to a final decision-making document that differs from this proposal.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal in the **Federal Register**. Such requests must be made in writing and addressed

to the Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Required Determinations

This proposed rule does not contain collections of information that require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

References Cited

A complete list of all references cited herein is available upon request from the Ventura Fish and Wildlife Office (see **ADDRESSES** section).

Author: The primary author of this proposed rule is Tim Thomas, Ventura Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, the Service hereby proposes to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend section 17.12(h) by adding the following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
FLOWERING PLANTS							
•	•	•	•	•	•	•	
Cirsium loncholepis	La Graciosa thistle ..	U.S.A. (CA)	Asteraceae—Sunflower.	E	.....	NA	NA
•	•	•	•	•	•	•	
Eriodictyon capitatum.	Lompoc yerba santa	U.S.A. (CA)	Hydrophyllaceae—Waterleaf.	E	.....	NA	NA
•	•	•	•	•	•	•	
Hemizonia increscens ssp. *villosa.*	Gaviota tarplant	U.S.A. (CA)	Asteraceae—Sunflower.	E	.....	NA	NA
•	•	•	•	•	•	•	
Lupinus nipomensis	Nipomo Mesa lupine	U.S.A. (CA)	Fabaceae—Pea	E	.....	NA	NA
•	•	•	•	•	•	•	

Dated: March 17, 1998.

Jamie Rappaport Clark,

Director, Fish and Wildlife Service.

[FR Doc. 98–8049 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–55–U

Notices

Federal Register
Vol. 63, No. 60
Monday, March 30, 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

Agricultural Marketing Service

[PY–97–007]

United States Grade Standards for Poultry and Rabbits

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is changing the United States Grade Standards for Poultry. Specifically, the changes will revise the existing grade standards for boneless parts, skinless carcasses and parts, and boneless, skinless parts. New grade standards will be added for ready-to-cook (raw), boneless, skinless drumsticks and legs; and raw size-reduced boneless, skinless products. Existing standards for defeathering will be clarified by detailing specific feather tolerances for Grades A-, B-, and C-quality carcasses and parts. Additionally, the authority to grade-identify boneless, skinless products under three tentative standards that were used to develop the new grade standards will be terminated. The standards are being updated to reflect changes in poultry processing technology and marketing.

EFFECTIVE DATE: April 29, 1998.

FOR FURTHER INFORMATION CONTACT: Contact Rex A. Barnes at (202) 720–3271.

SUPPLEMENTARY INFORMATION: Poultry grading is a voluntary program provided under the Agricultural Marketing Act of 1946, as amended, 7 U.S.C. 1621 *et seq.*, and is offered on a fee-for-service basis.

On December 4, 1995, the Voluntary United States Grade Standards for Poultry and Rabbits were removed from the Code of Federal Regulations (CFR) as part of the National Performance Review program to eliminate unnecessary regulations and to improve those that remain in force. AMS continues to administer the official standards and makes copies available on the Internet or upon request. The United States Grade Standards for Poultry are now referred to as AMS 70.200 *et seq.* and the United States Grade Standards for Rabbits are now referred to as AMS 70.300 *et seq.*

Background and Comments

A notice of proposed changes to the United States Grade Standards for Poultry and Rabbits was published in the **Federal Register** (62 FR 51079) on September 30, 1997. Comments on the proposal were solicited from interested parties until December 1, 1997.

During the 90-day comment period, the Agency received two comments, both from State Departments of Agriculture and Consumer Services. One comment was in agreement with the proposed changes.

The other comment did not oppose the proposed changes, but questioned the Agency's position regarding skin as a defect on skinless carcasses and parts, and boneless, skinless products. As a result of this comment, the Agency is conducting a review of its policy and practices regarding skin on skinless products. If changes or clarifications to the standards appear warranted as a result of this review, a separate notice will be published in the **Federal Register** to advise the industry and public.

The Agency expects the proposed changes to extend the value of the U.S. Grade Standards for Poultry, and will therefore revise the subject standards as proposed. Copies of the revised standards are available from the Standardization Branch, Poultry Programs, AMS, USDA, Room 3944-South Bldg., STOP 0259, 1400 Independence Avenue, SW, Washington, DC 20250–0259, (202) 720–3506; or on the Internet at www.ams.usda.gov/poultry/standards/. The changes are summarized as follows:

Boneless Parts

The standards for boneless parts will be revised to include drumsticks and legs; address boneless, skin-on parts only; and exclude tenderloins. Tenderloins and other boneless, skinless parts and their respective requirements will be covered under a new section. This change will organize requirements for each product type by section and make the standards clearer and more "user friendly."

Boneless, Skinless Parts

A new section for Grade A-quality tenderloins and other whole muscle boneless, skinless parts will be added and the criteria updated by: (1) Including all parts (previously boneless, skinless drumsticks and legs could not be grade identified); (2) allowing only slight discolorations on the flesh; and (3) requiring parts to be free of cartilage, blood clots, bruises, cuts, tears, and holes.

For trimming of boneless, skinless poultry drumsticks and legs, the standard will require at least one-half of the drumstick and leg remain intact, and the part need no longer retain the meat yield of the original part. This change from the tentative standard is based on the Agency's long-standing policy that parts must be in recognizable portions for identification purposes and that the "one-half" requirement provides a minimum relationship to the meat yield.

Size-Reduced Poultry Products

Standards for size-reduced poultry products will be established by the following:

(1) Requirements for Grade A-quality raw size-reduced boneless, skinless products in the form of sliced, diced, and other similarly cut poultry products will be added to the standards.

(2) The section title under the tentative standard will be revised from "Ready-to-Cook, Boneless-Skinless Poultry Products, Without Added Ingredients" to "Size-Reduced Poultry Products." This change clarifies that this section covers size-reduced poultry products exclusively.

(3) The requirements for the "size-reduced" section will be revised from the tentative standard to require uniformity in product size and shape to be dictated by the size-reduction process. This change is necessary because it is improbable that all products of this nature would be uniform, especially since new technology, including slicing and dicing procedures, will constantly be improved, modified, and refined.

(4) Requirements for products labeled "sliced (part)" will be added to the standards. The product, such as breast, thigh, etc., shall: (a) Originate from the slicing of the boneless, skinless part; and (b) collectively approximate the

shape of the original part prior to slicing. Further, the slices need not come from the same part. These requirements are consistent with current guidelines for poultry labeled "whole chicken, cut-up," where all parts need not come from the same chicken.

Feather Criteria

The feather criteria in Grade A-, B-, and C-quality poultry carcasses and parts and Grade A-quality poultry roasts will be updated. Existing standards require that poultry either be "free of feathers" or possess only a few feathers when examined at normal grading speeds. The standards will be revised to specify the number and length of protruding feathers allowed on poultry for each grade, and limit the length of hair and/or down permitted on ducks and geese. These additions reflect the Agency's actual grading interpretation and practices, and do not require a change in existing procedures.

Tentative Grade Standards

The authority for the use of the three tentative grade standards will be terminated for: (1) Ready-to-cook boneless, skinless legs and drumsticks; (2) ready-to-cook boneless, skinless products without added ingredients; and (3) cooked boneless, skinless products, without added ingredients published in the **Federal Register** on March 30, 1995 (60 FR 16428), June 12, 1995 (60 FR 3083), and February 15, 1996 (61 FR 5975), respectively.

Miscellaneous Changes

Additionally AMS will:

(1) Add poultry tenderloins and wing portions to the standards to make each eligible for grade identification. Tenderloins may be identified as Grade A-quality; and wing portions may be identified as Grade A-, B-, or C-quality parts.

(2) Allow the use of clear to semi-clear marinades and sauces for grade-identified products, provided the ingredients do not alter the applicable grade factors or detract from the appearance of the product;

(3) Revise standards for skinless carcasses and parts to include specific labeling options; and

(4) Make additional miscellaneous changes to remove obsolete material and otherwise clarify, update, simplify, and technically correct the standards. These changes are editorial or housekeeping in nature and impose no new requirements.

Dated: March 24, 1998.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 98–8176 Filed 3–27–98; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Snake River Watershed, Marshall, Pennington, and Polk Counties, MN

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Natural Resources Conservation Service Guidelines (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, give notice that the environmental impact statement is being prepared for Snake River Watershed, Marshall, Pennington and Polk Counties, Minnesota.

FOR FURTHER INFORMATION CONTACT: William Hunt, State Conservationist, Natural Resources Conservation Service, 375 Jackson Street, Suite 600, St. Paul, MN 55101, Telephone: (612) 602–7854.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, William Hunt, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project's purpose is to provide flood prevention in the watershed. Alternatives under consideration to reach these objectives include conservation land treatment, off-channel floodwater retarding structure, and floodway.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Natural Resources Conservation Service invites participation and consultation of agencies and individuals that have special expertise, legal jurisdiction, or interest in the preparation of the draft environmental impact statement. Further information on the proposed action may be obtained from William Hunt, State Conservationist, at the above address or telephone (612) 602–7854.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: March 20, 1998.

William Hunt,

State Conservationist.

[FR Doc. 98–8226 Filed 3–27–98; 8:45 am]

BILLING CODE 3410–66–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Americans With Disability Act Accessibility Guidelines for Passenger Vessels

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to establish advisory committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces its intent to establish a Passenger Vessel Access Advisory Committee (Committee) to make recommendations for accessibility guidelines for passenger vessels covered by the Americans with Disabilities Act of 1990. The Access Board requests applications for representatives to serve on the Committee.

DATES: Applications should be received by May 14, 1998.

ADDRESSES: Applications should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Fax number (202) 272–5447.

Applications may also be sent via electronic mail to the Access Board at the following address: pvaac@access-board.gov.

FOR FURTHER INFORMATION CONTACT: Paul Beatty, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 19 (Voice); (202) 272–5449 (TTY). This document is available in alternate formats (cassette tape, Braille, large print, or computer disk) upon request and is also available on the Board's Internet site (http://

www.access-board.gov/notices/pvaac.htm)

SUPPLEMENTARY INFORMATION: The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines under the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to ensure that facilities and vehicles covered by the law are readily accessible to and usable by individuals with disabilities.[1] The ADA is a comprehensive civil rights law that prohibits discrimination on the basis of disability. Title II of the ADA establishes requirements for the purchase, lease, and remanufacture of vehicles operated by State and local government entities to provide designated public transportation. 42 U.S.C. 12141, 12142, 12144. For purposes of title II of the ADA, the term "designated public transportation" means "transportation * * * by bus, rail, or any other conveyance * * * that provides the general public with general or special service (including charter service) on a regular and continuing basis."[2] 42 U.S.C. 12141(2). Passenger vessels such as ferries operated by State and local government entities to provide designated public transportation are thus subject to the transportation vehicle requirements of title II of the ADA.

Title III of the ADA establishes requirements for the purchase and lease of vehicles operated by private entities, who are primarily engaged in the business of transporting people and whose operations affect commerce, to provide specified public transportation. 42 U.S.C. 12184. For purposes of title III of the ADA, the term "specified public transportation" means "transportation by bus, rail, or any other conveyance * * * that provides the general public with general or special service (including charter service) on a regular and continuing basis."[3] 42 U.S.C. 12181(10). Passenger vessels such as cruise ships and excursion boats operated by private entities to provide specified public transportation are thus subject to the transportation vehicle requirements of title III of the ADA.[4] Title III of the ADA also establishes requirements for the purchase and lease of vehicles by private entities who are not primarily engaged in the business of transporting public but operate a demand responsive or fixed route system. 42 U.S.C. 12182(b)(2) (B) and (C). For example, an amusement park or hotel that operates shuttle boats to transport patrons from a parking area to the main attraction area or hotel itself would be subject to the transportation vehicle requirements of title III of the ADA.

In addition to the transportation vehicle requirements, title III of the ADA establishes requirements for new construction and alteration of places of public accommodation operated by private entities. 42 U.S.C. 12183. There are twelve categories of places of public accommodation covered by title III of the ADA, including places of lodging, establishments serving food or drink, and places of exhibition or entertainment. 42 U.S.C. 12181(7) (A)–(L). Passenger vessels or portions of vessels that are within any of the twelve categories of places of public accommodation such as cruise ships, dinner ships, gaming boats, and sightseeing vessels are thus subject to the public accommodation requirements of title III of the ADA.[5]

As discussed above, titles II and III of the ADA cover a variety of passenger vessels. The Access Board initially issued the Americans with Disabilities Act Accessibility Guidelines for Transportation Vehicles in 1991. 36 CFR part 1192. These guidelines primarily address bus and rail transportation systems and have been adopted as the accessibility standards for transportation vehicles by the Department of Transportation. 49 CFR part 38. When the accessibility guidelines and standards were proposed, the Access Board and the Department of Transportation recognized that passenger vessels present different design issues than buses and trains and requested information on barriers presented by passenger vessels and how to solve them. 56 FR 11848 (March 20, 1991); 56 FR 13866 (April 4, 1991). Based on comments received, the Access Board and the Department of Transportation determined that further study was necessary to develop accessibility guidelines and standards for passenger vessels. 56 FR 45558 (September 6, 1991); 56 FR 45599 (September 6, 1991). The Access Board and the Department of Transportation subsequently sponsored a study to assess the feasibility and impact of providing access to passenger vessels. Volpe National Transportation Systems Center, "Access for Persons with Disabilities to Passenger Vessels and Short Facilities: The Impact of Americans with Disabilities Act of 1990" (July 1996).[6] Project ACTION of the National Easter Seal Society also recently completed a study that examines best practices for providing access to passenger vessels. Katherine McGuiness Associates, "Accessible Water Transportation, A Project ACTION Best Practice Study" (October 1997).[7] Sufficient information is now available to develop accessibility guidelines and standards for passenger vessels.

The Access Board and the Department of Transportation held an informational meeting in April 1996 with organizations representing people with disabilities and the passenger vessels industry to discuss issues related to developing accessibility guidelines and standards for passenger vessels. As a result of the meeting and its experience working with interested organizations to develop accessibility guidelines, the Access Board has decided to establish a Passenger Vessels Access Advisory

[1] The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; General Services Administration; and United States Postal Service.

[2] Designated public transportation does not include public school transportation, transportation by aircraft (which is covered by the Air Carrier Access Act (49 U.S.C. 1374(c)), or intercity or commuter rail transportation (which is covered by other parts of the ADA (42 U.S.C. 12161, 12162)).

[3] Specified public transportation does not include transportation by aircraft (which is covered by the Air Carrier Access Act (49 U.S.C. 1374(c))).

[4] The Department of Transportation is responsible for issuing regulations to implement the transportation vehicle requirements of title III of the ADA. 42 U.S.C. 12186(a)(1). The Department of Transportation has interpreted specified public transportation to include cruise ships. 56 FR 45600 (September 6, 1991). Regarding foreign-flag cruise ships, the Department of Transportation has noted that the United States has jurisdiction over foreign-flag ships in its ports but its ability to enforce its laws and regulations may be limited where the terms of a law or regulation are in conflict with the terms of an international treaty. *Id.* The Department of Transportation has indicated that it would structure any regulatory requirements affecting foreign-flag ships to avoid such conflicts. *Id.*

[5] The Department of Justice is responsible for issuing regulations to implement the public accommodation requirements of title III of the ADA. 42 U.S.C. 12186(b). Under the Department of Justice regulations, places of public accommodation on passenger vessels are covered by the public accommodation requirements of title III of the ADA. 28 CFR part 36, appendix B (see p. 613 of the July 1, 1997 edition). Thus, some passenger vessels such as cruise ships are subject to both the transportation vehicle and public accommodation requirements of title III of the ADA.

[6] The report may be purchased from the National Technical Information Service by calling (703) 605–6000 and requesting publication number PB 97146948.

[7] The report may be obtained from Project ACTION by calling (202) 347–3066 (voice) or (202) 347–7385 (TTY).

Committee (Committee). The Department of Transportation and the U.S. Coast Guard will work with the Committee. The Committee will make recommendations on issues such as:

- Types of passenger vessels to be addressed by the accessibility guidelines;
- Barriers to the use of such vessels by persons with disabilities;
- Solutions to such barriers, if known, categorized by disability (different solutions may be needed for different disabilities) and research on such barriers; and
- Contents of the accessibility guidelines.

The Committee will be expected to present a report with its recommendations within 18 months of the Committee's first meeting.

The Access Board requests applications for representatives of the following interests for membership on the Committee:

- Owners and operators of various passenger vessels;
- Designers or manufacturers of passenger vessels;
- Individuals with disabilities; and
- Others affected by accessibility guidelines for passenger vessels.

The number of Committee members will be limited to effectively accomplish the Committee's work and will be balanced in terms of interests represented. Organizations with similar interests are encouraged to submit a single application to represent their interest.

Applications should be sent to the Access Board at the address listed at the beginning of this notice. The application should include the representative's name, title, address, and telephone number; a statement of the interests represented; and a description of the representative's qualifications, including knowledge of accessible design and any experience making passenger vessels accessible to individuals with disabilities.

Committee members will not be compensated for their service. The Access Board, at its own discretion, may pay travel expenses for a limited number of persons who would otherwise be unable to participate on the Committee. Committee members will serve as representatives of their organizations, not as individuals. They will not be considered special government employees and will not be required to file confidential financial disclosure reports.

After the applications have been reviewed, the Access Board will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. The first meeting of the Committee is tentatively scheduled for September 1998 in Washington, DC. The Committee will operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2. Committee meetings usually will be held in Washington, DC. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least fifteen days in advance of the meeting. Records will be kept of each meeting and made available for public inspection. Although the Committee will be limited in size, there will be opportunities for the public to present written information to the Committee, participate through subcommittees, and to comment at Committee meetings.

Thurman M. Davis, Sr.,

Chair, U.S. Architectural and Transportation Barriers Compliance Board.

[FR Doc. 98–8264 Filed 3–27–98; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; New World Transtechnology; Order Denying Permission to Apply for or Use Export Licenses

On December 20, 1996, New World Transtechology was convicted in the United States District Court for the Southern District of Texas of violating the International Emergency Economic Powers Act (50 U.S.C.A. 1701–1706 (1991 & Supp. 1997)) (IEEPA). New World Transtechnology was convicted on one count of knowingly and willfully attempting and causing to be exported, to the People's Republic of China, three Sun Microsystems SPARCstation computers without the required validated export license or other authorization from the U.S. Department of Commerce, and one count of knowingly and willfully attempting to export and attempting to cause to be exported from the United States to the Commonwealth of Hong Kong, for transshipment to the People's Republic of China, a MIPS Magnum 4000 PC–50 Advanced RISC computer without the required validated export license or other authorization from the U.S. Department of Commerce.

Section 11(h) of the Export Administration Act of 1979, as amended (50 U.S.C.A. app. Sections 2401–2420 (1991 & Supp. 1997)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1997)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to Sections 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of New World Transtechnology's conviction for violating IEEPA and following consultations with the Acting Director, Office of Export Enforcement, I have decided to deny New World Transtechnology permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of its conviction. The 10-year period ends on December 20, 2006. I have also decided to revoke all licenses issued pursuant to the Act in which New World Transtechnology had an interest at the time of its conviction.

Accordingly, *it is hereby ordered*

I. Until December 20, 2006, New World Transtechnology, 417 Church Street, Apartment 25, Galveston, Texas 77550, may not, directly or indirectly, participate in any way, in any transaction involving any commodity, software or technology (hereinafter collectively referred to as "item")

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), and August 13, 1997 (62 FR 43629, August 15, 1997), continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to New World Transtechnology by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-producted direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until December 20, 2006.

VI. A copy of this Order shall be delivered to New World Transtechnology. This Order shall be published in the **Federal Register**.

Dated: March 19, 1998.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 97–8231 Filed 3–27–98; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; Notice of Open Meeting

ACTION: Notice is hereby given of a meeting of the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters, created pursuant to Executive Order 13038.

SUMMARY: The President established the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters (PIAC) to advise the Vice President on the public interest obligations of digital broadcasters. The Committee will study and recommend which public interest obligations should accompany broadcasters' receipt of digital television licenses. The President designated the National Telecommunications and Information Administration as secretariat for the Committee.

AUTHORITY: Executive Order 13038, signed by President Clinton on March 11, 1997.

DATES: The meeting will be held on Tuesday, April 14, 1998 from 8:30 a.m. until 5:00 p.m.

ADDRESSES: The meeting is scheduled to take place in the Auditorium at the U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230. This location is subject to change. If the location changes, another **Federal Register** notice will be issued. Updates about the location of the meeting will also be available on the Advisory Committee's homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm or you may call Karen Edwards at 202–482–8056.

FOR FURTHER INFORMATION CONTACT: Karen Edwards, Designated Federal Officer and Telecommunications Policy Specialist, at the National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4720; 14th Street and Constitution Avenue, N.W.; Washington, DC 20230. Telephone: 202–482–8056; Fax: 202–482–8058; E-mail: piac@ntia.doc.gov.

MEDIA INQUIRIES: Please contact Paige Darden at the Office of Public Affairs, at 202–482–7002.

AGENDA:

Tuesday, April 14

Opening remarks
Committee deliberations
Closing remarks

This agenda is subject to change. For an updated, more detailed agenda, please check the Advisory Committee homepage at www.ntia.doc.gov/pubintadvcom/pubint.htm.

PUBLIC PARTICIPATION: The meeting will be open to the public, with limited seating available on a first-come, first-served basis. This meeting is physically accessible to people with disabilities. Any member of the public requiring special services, such as sign language interpretation or other ancillary aids, should contact Karen Edwards at least five (5) working days prior to the meeting at 202–482–8056 or at piac@ntia.doc.gov.

Any member of the public may submit written comments concerning the Committee's affairs at any time before or after the meeting. The Secretariat's guidelines for public comment are described below and are available on the Advisory Committee website (www.ntia.doc.gov/pubintadvcom/pubint.htm) or by calling 202–482–8056.

GUIDELINES FOR PUBLIC COMMENT: The Advisory Committee on Public Interest Obligations of Digital Television Broadcasters welcomes public comments.

Oral Comment: In general, opportunities for oral comment will usually be limited to no more than five (5) minutes per speaker and no more than thirty (30) minutes total at each meeting.

Written Comment: Written comments must be submitted to the Advisory Committee Secretariat at the address listed below. Comments can be submitted either by letter addressed to the Committee (please place "Public Comment" on the bottom left of the envelope and submit at least thirty-five (35) copies) or by electronic mail to piac@ntia.doc.gov (please use "Public Comment" as the subject line). Written comments received within three (3) workings days of a meeting and comments received shortly after a meeting will be compiled and sent as briefing material to Committee members prior to the next scheduled meeting.

OBTAINING MEETING MINUTES: Within thirty (30) days following the meeting, copies of the minutes of the meeting may be obtained over the Internet at www.ntia.doc.gov/pubintadvcom/pubint.htm, by phone request at 202–482–8056 or 202–501–6195, by email request at piac@ntia.doc.gov or by written request to Karen Edwards;- Advisory Committee on Public Interest Obligations of Digital Television Broadcasters; National Telecommunications and Information Administration; U.S. Department of Commerce, Room 4720; 14th Street and Constitution Avenue N.W.; Washington, DC 20230.

Shirl Kinney,

Acting Assistant Secretary for Communications and Information.

[FR Doc. 98–8291 Filed 3–27–98; 8:45 am]

BILLING CODE 3510–04–U

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Mauritius

March 24, 1998.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: April 1, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limit for Categories 338/339 is being reduced for carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66057, published on December 17, 1997). Also see 62 FR 67626, published on December 29, 1997.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 24, 1998.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 19, 1997, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on January 1, 1998 and extends through December 31, 1998.

Effective on April 1, 1998, you are directed to decrease the limit for Categories 338/339 to 418,893 dozen [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.98–8194 Filed 3–27–98; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Number: Army National Guard Survey; OMB Number 0702—[to be determined].

Type of Request: New Collection.

Number of Respondents: 6,000.

Responses Per Respondent: 1.

Annual Responses: 6,000.

Average Burden Per Response: 15 minutes.

Annual Burden Hours: 1,500.

Needs And Uses: This research will be a mail survey among Army National Guard members. The research will assist the Army National Guard (ARNG) in making the most effective use of its pubic relations, advertising, and marketing budget for recruiting efforts. The research will help the ARNG and its advertising agency prioritize activities, focus their messages, and understand the various segments of Guard members. The public relations, advertising, and marketing activities can have a significant impact on recruiting and retention of Guard members. Recruiting and retention have been areas of concern in recent years for the Army Nation Guard.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DoD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 24, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 98–8139 Filed 3–27–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Satellite Reconnaissance

ACTION: Notice of Advisory Committee Meetings.

[1] The limit has not been adjusted to account for any imports exported after December 31, 1997.

SUMMARY: The Defense Science Board Task Force on Open Systems will meet in closed session on April 7–8 and May 6–7, 1998 at Strategic Analysis, Inc., 4001 N. Fairfax Drive, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine the benefits of, criteria for, and obstacles to the application of an open systems approach to weapon systems, and make recommendations on revisions to DoD policy, practice, or investment strategies that are required to obtain maximum benefit from adopting open systems. The Task Force will examine application to new defense programs, to those that have already made substantial investments in a design, and to those that are already fielded, across the spectrum of weapon systems, not just those heavily dependent on advanced computers and electronics.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly this meeting will be closed to the public.

Dated: March 24, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–8138 Filed 3–27–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent to Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Tel Med Technologies (hereafter TMT), a Michigan Corporation, an exclusive license under: United States Patent Application Serial No. 08/87,118 filed in the name of Stephen M. Schmitt for a "Digital Imaging System for construction of implant retained restorations."

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this Notice. Information concerning the application may be obtained, on request, from the same addressee.

All communications concerning this Notice should be sent to: Mr. Randy Heald, Patent Attorney, Secretary of the Air Force, Office of the General Counsel, SAF/GCQ, 1501 Wilson Blvd., Suite 805, Arlington, VA 22209–2403, Telephone No. (703) 696–9037.

Barbara A. Carmichael,

Alternate Air Force Federal Register Liaison Officer.

[FR Doc. 98–8228 Filed 3–21–98; 8:45 am]

BILLING CODE 3910–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.

ACTION: Notice to amend system of records.

SUMMARY: The Department of the Army is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on April 29, 1998, unless comments are received which result in a contrary determination.

ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.

FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the records system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 24, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

A0015–180 SFMR

SYSTEM NAME:

Army Council of Review Boards *(February 22, 1993, 58 FR 10030).*

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with 'Military Review Boards'.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Add 'DD Form 293' to entry.

* * * * *

PURPOSE(S):

Add '(7) Army Grade Determination Review Board, and (8) Army Active Duty Board' to entry.

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with 'Director, Review Boards Agency, ATTN: Administrative Support, 1941 Jefferson Davis Highway, Arlington, VA 22202–4508.'

* * * * *

A0015–180 SFMR

SYSTEM NAME:

Military Review Boards.

SYSTEM LOCATION:

Office of the Secretary of the Army, 101 Army Pentagon, Washington, DC 20310–0101. The Army Review Boards Agency (ARBA) maintains an automated index of Discharge Review Board cases by alphanumeric code and case summary data by personal identifier. The Army Review Boards Agency, Support Division, St. Louis, MO performs administrative processing of these cases via its on-line terminal to the Army Review Boards Agency. Decisions of the Military Review Boards are incorporated in the Official Military Personnel File of the petitioner at the U.S. Army Reserve Components Personnel and Administration Center, St. Louis, MO.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members and/or former members of the active Army; prospective enlistees/inductees separated or pending separation who have cases pending or under consideration by the Military

Review Boards or any of its components.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's application for review which includes name, Social Security Number, present address; DD Form 293; name and address of counsel, if applicable; type, authority, and reason for discharge; mode of hearing, if desired; issues addressed by the board, findings, conclusions, and decisional documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 1214, 1216, 1553, and 1554; and E.O. 9397 (SSN).

PURPOSE(S):

Records are used by the following Boards to determine propriety of action taken or requested, within the purview of the Board's charter: (1) Army Discharge Review Board, (2) Army Board for Review of Elimination, (3) Army Discharge Rating Review Board, (4) Army Physical Disability Appeal Board, (5) Army Security Review Board, (6) Army Ad Hoc Board, (7) Army Grade Determination Review Board, and (8) Army Active Duty Board.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the Army's compilation of systems of records notices also apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tapes and/or discs, microfiche.

RETRIEVABILITY:

Within individual Board, by Social Security Number or surname of petitioner.

SAFEGUARDS:

Information is privileged, restricted to individuals who have a need in the performance of official duties. Records are retained in locked rooms within buildings having security guards. Automated records are identified as Privacy Act data and further protected by assignment of user ID and passwords.

RETENTION AND DISPOSAL:

Paper records are stored in the Official Military Personnel File. Active cases in automated media are retained for 2 years before being transferred to the historical files where they are retained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Review Boards Agency, ATTN: SFMR-RBX, Promulgation Team, 1941 Jefferson Davis Highway, Arlington, VA 22202–4508.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Director, Review Boards Agency, ATTN: SFMR-RBX, Promulgation Team, 1941 Jefferson Davis Highway, Arlington, VA 22202–4508.

Individuals must furnish full name, Social Security Number, home address and telephone number, and sufficient details to permit locating the records in question.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to the Director, Review Boards Agency, ATTN: SFMR-RBX, Promulgation Team, 1941 Jefferson Davis Highway, Arlington, VA 22202–4508.

Individuals must furnish full name, Social Security Number, home address and telephone number, and sufficient details to permit locating the records in question.

CONTESTING RECORD PROCEDURES:

The Army's rules for accessing records and for contesting contents and appealing initial agency determinations are contained in Army Regulation 340 21; 32 CFR part 505; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

From the individual; his/her Official Military Personnel File; correspondence, documents, and related information generated as a result of action by the Boards.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–8136 Filed 3–27–98; 8:45 am]
BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army

Privacy Act of 1974; System of Records

AGENCY: Department of the Army, DoD.
ACTION: Amendment Notice.

SUMMARY: The Department of the Army proposes to amend the preamble to the Army's compilation of Privacy Act systems of records notices.
EFFECTIVE DATE: March 30, 1998.
ADDRESSES: Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.
FOR FURTHER INFORMATION CONTACT: Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.
SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The Department of the Army proposes to amend the preamble to the Army's compilation of Privacy Act systems of records notices. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: March 24, 1998.

L.M. Bynum,
Alternate OSD Federal Register Liaison Officer, Department of Defense.

UNITED STATES ARMY

HOW SYSTEMS OF RECORDS ARE ARRANGED.

Department of the Army records are identified by the directive number which prescribes the records created, maintained and used, and are published in numerical sequence by identification number. For example, a system of records about assignment of military personnel may be found in the 614 series; 'assignments, details and transfers'. Some subjects, such as investigations, are treated as sub-elements of a series, e.g., 'criminal investigations', 'security', and 'military intelligence'.

HOW TO USE THE INDEX GUIDE.

To locate a particular system of records, follow this general guide. The series subject corresponds to the system identification number. For example: medical records for military and civilian

personnel are in the 40 series. The first letter, 'A', represents the Army, the number 40-66 is the prescribing directive, and the suffix letters are internal management devices.

FOR FURTHER ASSISTANCE:

Any questions should be addressed to the Privacy Act Officer, Records Management Program Division, U.S. Total Army Personnel Command, ATTN: TAPC-PDR-P, Stop C55, Ft. Belvoir, VA 22060–5576.

POINT OF CONTACT:

Ms. Janice Thornton at (703) 806–4390 or DSN 656–4390.

SUBJECT SERIES

SYSTEM IDENTIFICATION SERIES

A0001
Office Administration Housekeeping Files
A0015
Boards, Commissions, and Committees Files
A0020
Inspector General Assistance, Inspections Investigation, and Follow-up Files
A0025
Information Management Files
A0027
Legal Services Files
A0030
Food Program Files
A0037
Financial Administration/ Management Files
A0040
Medical Services Files
A0055
Transportation and Travel Files
A0056
Surface Transportation Files
A0060
Exchange Service Files
A0065
Postal Services Files
A0070
Research, Development, and Acquisition Files
A0095
Aviation Files
A0135
General Army National Guard and Army Reserve Files
A0140
U.S. Army Reserve Files
A0145
Reserve Officers Training Corps (ROTC) Files
A0165
Religious Activity Files
A0190
Military Police Files
A0195
Criminal Investigation Files
A0210
Army Installations Files
A0215
Morale, Welfare, and Recreation/ Nonappropriated Funds (NAF) Files
A0220
Military Personnel Data Files
A0340
Army Privacy Program Files
A0350
Training and Evaluation Files
A0351
Army Schools Files
A0352
Dependent's Education Files
A0360
Army and Public Information Files
A0380
Security Information Files
A0381
Military Intelligence Files
A0385
Safety Files
A0405
Homeowners Assistance/Real Estate Files
A0570
Human Resources Information Files
A0600
General/Military Personnel Management Files
A0601
Military Personnel Procurement Files
A0602
Behavioral and Social Sciences Files
A0608
Personal Affairs Files
A0614
Assignments, Details, and Transfers Files
A0621
Education Files
A0635
Officer/Enlisted Personnel Separation Files
A0640
Personnel Management and Identification of Individuals Files
A0672
Decorations, Awards, and Honors Files
A0680
Personnel Information System Files
A0690
Civilian Personnel Files
A0710
Inventory Management Files
A0715
Procurement Files
A0725
Requisition and Issue of Supplies and Equipment Files
A0735
Library Borrowers'/Users' Files
A0870
Army History Files
A0920
Civilian Marksmanship Program Files
A0930
Army Emergency Relief Transaction Files
A1105
Corps of Engineers Planning Files
A1130
Corps of Engineers Civilian Uniform Files
A1145
Corps of Engineers Regulator Functions Files

ARMY AND AIR FORCE EXCHANGE SERVICE (AAFES)

AAFES 02
Executive Management Records
AAFES 04
Personnel Management Records
AAFES 05
Information and Public Relations Records
AAFES 06
Legal and Legislative Records
AAFES 07
Financial Management Records
AAFES 09
Automated Data Processing Records
AAFES 12
Procurement Records
AAFES 15
Transportation Records
AAFES 16
Pans and Management Records
AAFES 17
Safety and Security Records

IN ADDITION, THE DEPARTMENT OF THE ARMY MAINTAINS SYSTEMS OF RECORDS IN ACCORDANCE WITH GOVERNMENT-WIDE PRIVACY ACT SYSTEMS OF RECORDS NOTICES.

Equal Employment Opportunity Commission

EEOC/GOVT-1
Equal Employment Opportunity in the Federal Government Complaint and Appeal Records.

Federal Emergency Management Agency

FEMA/GOVT-1
National Defense Executive Reserve System.

General Services Administration

GSA/GOVT-2
Employment Under Commercial Activities Contracts.
GSA/GOVT-3
Travel Charge Card Program.
GSA/GOVT-4
Contracted Travel Service Program.

Department of Labor

DOL/GOVT-1
Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.
DOL/GOVT-2
Job Corps Student Records.

Merit Systems Protection Board

MSPB/GOVT-1
Appeal and Case Records.

Office of Government Ethics

OGE/GOVT-1
Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records.
OGE/GOVT-2
Confidential Statements of Employment and Financial Interests.

Office of Personnel Management

OPM/GOVT-1
General Personnel Records.
OPM/GOVT-2
Employee Performance File System Records.
OPM/GOVT-3
Records of Adverse Actions, Performance Based Reduction in Grade and Removal Actions, and Termination of Probationers.
OPM/GOVT-4
[Reserved]
OPM/GOVT-5
Recruiting, Examining, and Placement Records.
OPM/GOVT-6
Personnel Research and Test Validation Records.
OPM/GOVT-7
Applicant Race, Sex, National Origin, and Disability Status Records.
OPM/GOVT-8
[Reserved]
OPM/GOVT-9
File on Position Classification Appeals, Job Grading Appeals, and Retained Grade or Pay Appeals.
OPM/GOVT-10
Employee Medical File System Records.

[FR Doc. 98–8137 Filed 3–27–98; 8:45 am]
BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent to Prepare a Draft Environmental Impact Statement (DEIS); Marble Bluff Fish Passageway Enhancement Project, Lower Truckee River, Nevada

AGENCY: U.S. Army Corp of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), lead agency under the National Environmental Policy Act, and the Pyramid Lake Paiute Tribe (PLPT), non-federal sponsor, intend to prepare a document to evaluate the environmental effects of the proposed fish spawning and passageway enhancement project in the vicinity of Marble Bluff Dam.

The study purpose is to identify and evaluate alternative measures to increase fish passage on the lower Truckee River between Pyramid Lake and Marble Bluff Dam and to increase spawning and rearing habitat for the migratory cui-ui and Lahontan cutthroat trout (LCT) along the Lower Truckee River. The investigation will analyze several measures evaluated in the reconnaissance phase study, and will identify a feasible habitat restoration and fish passage enhancement plan. Operational measures considering changes to river flow regime and reservoir operations and structural measures including a meandering fish channel and dual lock system will be further evaluated.

FOR FURTHER INFORMATION CONTACT: An issues scoping meeting for the investigation is scheduled for April 1, 1998, from 6 to 8 p.m. at the Pyramid Lake Paiute Tribe Council Chambers, 208 Capital Hill, Nixon, NV 89424. Please address any questions regarding the EIS to Mr. Mario Parker, Planning Division, Environmental Resources Branch, Corps of Engineers, 1325 J Street, Sacramento, California 95814–2922. He can also be reached by telephone at (916) 557–6701.

SUPPLEMENTARY INFORMATION:

1. Project Location

(a) The Truckee River system is located in the western Great Basin along the eastern slopes of the Sierra Nevada. The river flows out of Lake Tahoe on the California side and winds its way for about 140 miles through Reno, Nevada and other smaller towns to its terminus in Pyramid Lake. The primary study area is on the PLPT Reservation and includes those reaches of the Truckee River, extending from about the town of Wadsworth to Pyramid Lake. Overall, the Truckee basin consists of approximately 3,600 square miles from Lake Tahoe, California, to Pyramid Lake, Nevada. The area includes nine small reservoirs and Lake Tahoe in the Sierra Nevada mountains, as well as Pyramid Lake and Winemucca Dry Lake in the eastern portion of the basin. The upstream reservoirs and lakes strongly influence downstream hydrology along the lower reaches of the river.

(b) Marble Bluff Dam and fish passageway was constructed in 1975 by the U.S. Bureau of Reclamation (BOR). The dam was constructed by the Bureau for the dual purpose of reducing riverbed downcutting and to help in the passage of fish from Pyramid Lake to the Lower Truckee River. The PLPT and U.S. Fish and Wildlife Service jointly manage the fish facility at Marble Bluff Dam, while the BOI maintains the dam and the fish facility. In the summer of 1997, the BOR modified the existing fish lock to compensate for several on-going facility operations problems. Additional modifications to the existing fish facility appear to be necessary to restore effective cui-ui passage to the lower Truckee River. The migration of Lahontan cutthroat trout is not expected to be significantly inhibited by the fish lock.

2. Proposed Action and Alternatives

(a) The Corps and the PLPT (non-Federal sponsor) are conducting a feasibility study to (1) develop long-term fish passage for cui-ui and LCT at Marble Bluff Dam and (2) develop flow regimes to improve spawning, migratory, and rearing habitat for the cui-ui and LCT, restore native riparian and wetland habitat, and generally optimize Lower Truckee River biota.

(b) The feasibility report and EIS will include the measures analyzed in the 1995 reconnaissance report and carried forward for analysis in the feasibility phase. The report will evaluate the no-action alternative and the following measures: (1) Construction of a meandering channel within the width of the existing fish passageway; (2) construction of a meandering channel along a new alignment that connects Pyramid Lake and the Truckee River upstream of Marble Bluff Dam; (3) elimination of the barrier created by the Pyramid Lake delta and low lake levels; (4) modification of the existing fish passageway; and (5) partial or full removal of Marble Bluff Dam.

3. Environmental Consequences

(a) The lead agencies have identified potential environmental effects of the proposed action in the following areas:

- Riparian habitat.
- Cultural resources.
- Land use.

4. Scoping Process

(a) "Scoping" is process of identifying the range of actions, alternatives, and impacts to be evaluated in an environmental document. The public is invited to assist the lead agency in scoping this EIS. This process provides an opportunity for the public to identify significant resources within the study area that may be affected by the project. To facilitate this involvement, a public scoping meeting will be held April 1, 1998, from 6 to 8 p.m. at the Pyramid Lake Paiute Tribe Council Chambers,

208 Capital Hill, NV 89424. A summary of the meeting will be made available. Individuals, organizations, and agencies are also encouraged to submit written scoping comments by April 22, 1998.

(b) After the draft EIS is prepared, it will be circulated to all interested parties for review and comment. Public meeting will be held to receive verbal and written comments. All comments will be considered and responded to in the final EIS.

5. Availability

The draft EIS is scheduled to be distributed for public review and comment in late 1998. All persons interested in receiving the draft document should contact Mr. Mario Parker at (916) 557–6701.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 98–8253 Filed 3–27–98; 8:45 am]

BILLING CODE 3710–EZ–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 May 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: March 24, 1998.

Linda Tague,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: 1998 Study of America Reads Challenge: READ*WRITE*NOW! (ARC:RWN) Summer Sites.

Frequency: On Occasion.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 65.

Burden Hours: 65.

Abstract: ED will use this data collection to generate information that describes ARC:RWN pilot sites providing summer and year-round community literacy programs. The information, collected from up to 65 project coordinators, will be used by ED officials to inform ARC reauthorization and proposed RWN legislation, and by ARC:RWN project coordinators and other community reading initiatives to design new projects.

[FR Doc. 98–8180 Filed 3–27–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before April 29, 1998.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. 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.

Dated: March 24, 1998.

Linda C. Tague,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: Extension.
Title: Technology Literacy Challenge Fund Performance Report.
Frequency: Annually.
Affected Public: State, local or Tribal Gov't, SEAs or LEAs.
Annual Reporting and Recordkeeping Hour Burden:
Responses: 57.
Burden Hours: 2,280.
Abstract: Information is necessary to manage the Technology Literacy Challenge Fund program, to consider the need for future authorizations, and to provide one set of data for evaluation and analysis.

[FR Doc. 98–8179 Filed 3–27–98; 8:45 am]
BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–26–018]

El Paso Natural Gas Company; Notice of Report of Refunds

March 24, 1998.

Take notice that on March 19, 1998, El Paso Natural Gas Company (El Paso) tendered for filing its Report of Refunds at Docket Nos. RP91–26–016, *et al.*

El Paso states that the Report of Refunds reflects elimination of ineligible take-or-pay costs and related interest previously collected in direct bills and throughout surcharges. El Paso states that refunds were distributed on February 17, 1998.

El Paso states that the refunds totaled $8,898,687.12 inclusive of interest. El Paso states that the refund was comprised of $3,225,311.50 inclusive of interest distributed to customers subject to a direct bill and $5,673,375.62 inclusive of interest distributed to customers subject to a throughput surcharge.

El Paso states that copies of the document were served upon all interstate pipeline system customers who received a refund distribution and affected state regulatory commissions in accordance with the requirements of Section 385.2010 of the Commission's Rules of Practice and Procedure. El Paso states that each customer received its pertinent detail (included in Volume No. 2) when refunds were distributed. El Paso states that it was not furnishing the complete Volume No. 2 to all customers due to the voluminous nature of such material.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 31, 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. 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. 98–8161 Filed 3–27–98; 8:45 am]
BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–60–000]

First National Oil, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 5, 1998, First National Oil, Inc. (National) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[1] requesting relief from the schedule established by the Commission's September 10, 1997 order in Docket Nos. RP97–369–000, GP97–3–000, GP97–4–000, and GP97–5–000.[2] National's petition is on file with the Commission and open to public inspection. National files this petition in order to substantiate a contention of underpayment.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[3] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988.

National seeks relief based on the following grounds:

1. National no longer owns certain wells (the Eaton and the Langhofer). The working interest owners have died and their heirs have declined to make restitution to National for any overpayment.

2. Overwhelmed with the necessity of finding the old records and calculating the refunds to be requested National's bookkeeper of 15 years resigned in September of 1997.

3. The principal amount due from National, as operator has been tendered to Panhandle Eastern Pipeline Company.

4. That part of the principal amount applicable to National, as operator, has been offered to Enron in escrow. National requests approval of the escrow amount proposed for Enron, ($15,122.65) if accepted by Enron. National contends that certain wells-the #1 Harvey and the #1 Eaton were not receiving the maximum lawful price for the years 1971, 1972, 1973, 1974, and 1979 through 1992 and therefore are obligated for no refund in any event.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8164 Filed 3–27–98; 8:45 am]
BILLING CODE 6717–01–M

[1] 15 U.S.C. 3142(c) (1982).

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM97–1–130–004]

Gas Transport, Inc.; Notice of Report of Billings and Refunds

March 24, 1998.

Taking notice that on March 17, Gas Transport, Inc. (GTI) filed in compliance with a Letter Order issued by the Federal Energy Regulatory Commission (Commission) on March 5, 1998, directing GTI to make refunds to its customers any Annual Charge Adjustment surcharge amounts collected in excess of the Commission approved $0.0020 per Dth rate for the period from October 1, 1996, through March 31, 1997.

GTI states that the Commission observed that, during the period from October 1, 1996 through March 31, 1997, GTI collected 9.0 cents per Dth, including the ACA surcharge of .22 cents per Dth. The Commission concluded that GTI's collection of .22 cents per Dth resulted in an overcharge of .02 cents per Dth when compared to the Commission-approved ACA surcharge.

GTI states that the refunds will be made by a credit to the March 1998 invoices for its IT customers.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before March 31, 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. 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. 98–8174 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–71–000]

Graham-Michaelis Corporation; Notice of Petition for Adjustment and Request for Extension of Time

March 24, 1998.

Take notice that on March 10, 1998, as supplemented on March 13, 1998, the Graham-Michaelis Corporation on behalf of the working interest owners for whom it operated leases (GMC and owners), filed a petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), for an adjustment of the Commission's refund procedures [15 U.S.C. § 3142(c) (1982)] with respect to the Kansas ad valorem tax refund liability. GMC and owners' petition is on file with the Commission and open to public inspection.

The Commission's September 10, 1997, order on remand from the D.C. Circuit Court of Appeals,[1] in Docket No. RP97–369–000, *et al.*,[2] directed first sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission clarified the refund procedures in its Order Clarifying Procedures [82 FERC ¶ 61,059 (1988)], stating therein that producers [first sellers] could request additional time to establish the uncollectability of royalty refunds, and that first sellers may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on their individual circumstances.

GMC and owners request an extension of 90 days from March 9, 1998, to allow GMC and owners and Colorado Interstate Gas Company (CIG) to resolve any dispute as to the correct amount of refund set forth in the Statement of Refunds Due [SRD] received from CIG and submit any unresolved dispute to FERC for resolution. Additionally, GMC and owners request that the Commission grant an adjustment to its procedures to allow SMC and owners to defer payment of principal and interest attributable to royalties for one year until March 9, 1999. Finally, GMC and owners request that the Commission grant an adjustment to its procedures to allow GMC and owners to place into an escrow account the amount of the refund which appears presently to be in dispute but which may still be resolved by agreement and (i) amounts attributable to royalty refunds which have not been collected from the royalty owners principal and interest; (ii) principal and interest on amounts attributable to production prior to October 4, 1983; (iii) interest on royalty amounts which have been recovered from the royalty owners (the principal of which was refunded); and (iv) interest on all reimbursed principal amounts determined to be refundable as being in excess of maximum lawful prices (excluding interest retained under (i), (ii), and (iii) above).

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8171 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[1] 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).

[2] *See* 80 FERC ¶ 61,264 (1997); *order denying reh'g*, 82 FERC ¶ 61,058 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–67–000]

John O. Farmer, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 11, 1998, John O. Farmer, Inc. (Farmer) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[1] for KN Interstate Gas Transmission Company with respect to its Kansas ad valorem tax refund liability under the Commission's September 10, 1997 order in Docket Nos

[1] 15 U.S.C. 3142(c) (1982).

RP97–369–000, GP97–3–000, GP97–4–000, and GP97–5–000.[2]

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[3] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission issued a January 28, 1998 order in Docket No. RP98–39–001, *et al.* (January 28 Order),[4] clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first seller may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller.

Farmer states that it is an operator of natural gas production and also owns working interests in said wells along with numerous other working interest owners in Kansas, which was subject to that state's ad valorem tax during the period 1983 through 1988.

Farmer requests that the pipeline be directed to tender a revised statement of refunds to Farmer and separate statements to the other individual working interest owners. Farmer states that it will work with the pipeline to provide sufficient information to prepare separate statements. Farmer also requests an adjustment to its procedures to allow Farmer to place in an interest bearing fund over which Farmer would maintain control. Farmer requests that the Commission provide for protective language to clarify that any amounts paid would be refunded with interest.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8169 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

[4] 82 FERC ¶ 61,059 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–72–000]

John O. Farmer, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 11, 1998, John O. Farmer, Inc. (Farmer), as an operator who owns 100 percent working interest in the Ackerman Ratzlaff, and Stewart Leases (First Seller),[1] filed a petition, pursuant to section 502(c) of the Natural Gas Policy Act of 1978 (NGPA), for an adjustment of the Commission's refund procedures [15 U.S.C. § 3142(c) (1982)] with respect to Farmer's Kansas ad valorem tax refund liability to Northern Natural Gas Company. Farmer's petition is on file with the Commission and open to public inspection.

The Commission's September 10 order or remand from the D.C. Circuit Court of Appeals,[2] in Docket No. RP97–369–000, *et al.*,[3] directed first Sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission clarified the refund procedures in its Order Clarifying Procedures [82 FERC ¶ 61,059 (1998)], stating therein that procedures (first Sellers) could request additional time to establish the uncollectability of royalty refunds, and that first Sellers may file requests for NGPA Section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on their individual circumstances.

Farmer requests that the Commission: 1) provide for protective language which would clarify that any amounts paid to the pipelines that are not ultimately required to be paid would be refunded with interest; and 2) permit the disputed amounts to be placed in an interest bearing fund over which Farmer would maintain control.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8172 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Attachments filed by Farmer indicate 100% ownership.

[2] 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).

[3] *See* 80 FERC ¶ 61,264 (1997); *order denying reh'g*, issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–73–000]

John O. Farmer, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 11, 1998, John O. Farmer, Inc. (Farmer) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGNP) [15 U.S.C. 3142(c) (1982)], requesting relief from the Commission's refund procedures, with respect to Farmer's Kansas ad valorem tax refund liability, required by the Commission's September 10, 1997 order (in Docket No. RP97–369–000 *et al*).[1] Farmer's petition is on file with the Commission and open to public inspection.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[2] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for

[1] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued Janauary 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

the period from 1983 to 1988. The Commission's September 10 order also provided that first sellers could, with the Commission's prior approval, amortize their Kansas ad valorem tax refunds over a 5-year period, although interest would continue to accrue on any outstanding balance.

Farmer states that it is an operator of natural gas production in Kansas which was subject to that state's ad valorem tax during the period 1983 through 1988. Farmer states that it also owns working interests in said wells along with numerous other working interest owners. With respect to this filing, Farmer states that Williams Natural Gas Company (Williams) has alleged that Farmer is obligated to refund certain amounts in accordance with Commission orders in these proceedings. Farmer states that on November 10, 1997, Williams tendered a schedule or statement of refunds to Farmer which provide the amount which Farmer is allegedly required to pay.

Farmer asserts that Williams has taken the position that Farmer as operator is responsible for the refunds attributable to all working interest owners. Farmer states that this position is contrary to the Commission's 1995 decision [71 FERC ¶ 61,185 (1995)], and therefore, Farmer requests that the pipeline purchaser be directed to tender a revised statement of refunds to Farmer and separate statements to the other individual working interest owners.

In addition, Farmer states that checks tendered by Farmer to the pipeline company for its working interest share contained certain language addressing the refunding to payer with interest any amounts ultimately not required to be paid by payor pursuant to court or Federal Energy Regulatory Commission order. Accordingly, Farmer requests that the conditional nature of the payments be expressly approved and that the Commission issue an order notifying the pipeline recipient that they will be required to refund to Farmer any amounts received, with interest, which are ultimately not required to be paid by Farmer.

Furthermore, Farmer states the Commission's January 28, 1998 "Order Clarifying Procedures", permits Farmer to pay any amounts in dispute into an escrow account "consistent with the types of escrow accounts that the Commission has approved in other proceedings." Farmer states that it has placed the outside working interest amounts, the disputed amounts and all interest in a separate interest bearing account. Farmer also states that because of the substantial expense involved and the complexities in determining the specific amounts in dispute, Farmer requests modification of the escrow requirement to permit it to place the disputed amounts in an interest bearing fund over which it will maintain control. Farmer states that it agrees to disburse the funds solely in accordance with subsequent orders of the Commission in these proceedings. Farmer further states that no party will be harmed or disadvantaged by this approach, and at the same time, Farmer will be relieved of the burden and associated cost of establishing formal escrow accounts.

Lastly, Farmer states that the dispute arises as to the tax reimbursement payments from Williams of $9,278.68 (Wheat Lease) and $3,793.64 (Schiff Lease) made October 26, 1987 with respect to 1986 taxes, and payments of $4,237.06 (Wheat Lease) and $6,337.78 (Schiff Lease) made January 30, 1989 with respect to 1987 taxes and the interest thereon. Farmer states that it is its position that the revenue received for these leases during these years did not exceed the applicable maximum lawful price established by the NGPA. Farmer states that it has enclosed in its filing a worksheet prepared by Williams showing the amounts paid as well as the Orders from the State Corporation Commission of Kansas determining these wells qualify for classification under Section 108 of the NGPA.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8173 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–162–000]

Kentucky West Virginia Gas Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

March 24, 1998.

Take notice that on March 20, 1998, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to become effective April 1, 1998:

Second Revised Sheet No. 141

Kentucky West states that the purpose of this filing is to comply with Order No. 636–C, Kentucky West has revised its General Terms and Conditions Section 24.5 to provide that the longest contract term that a shipper exercising its right of first of refusal must match is five years.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8162 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–62–000]

Ned E. & Dorothy J. Lowry; Notice of Petition for Adjustment and Dispute Resolution Request

March 24, 1998.

Take notice that on March 10, 1998, Ned E. & Dorothy J. Lowry (The Lowry's) filed a petition for adjustment

under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[1] and a dispute resolution request, with respect to its Kansas ad valorem tax refund liability under the Commission's September 10, 1997 order in Docket Nos. RP97–369–000, GP97–3–000, GP97–4–000, and GP97–5–000.[2]

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[3] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission issued a January 28, 1998 order in Docket No. RP98–39–001, *et al.* (January 28 Order),[4] clarifying the refund procedures, stating that producers could request additional time to establish the uncollectability of royalty refunds, and that first seller may file requests for NGPA section 502(c) adjustment relief from the refund requirement and the timing and procedures for implementing the refunds, based on the individual circumstances applicable to each first seller.

The Lowry's requests that the Commission resolve any potential dispute between The Lowry's and Anadarko Gathering Company (Anadarko), finding that The Lowry's have no liability for reimbursement of Kansas ad valorem taxes. The Lowry's state that they are only royalty owners, and that those tax reimbursements were made on their royalty interest in lands in the City of Liberal, which were leased to Kennedy & Mitchell. The Lowry's aver that they were never lessee or working interest owners and further state that they made no sales of the gas. The Lowry's state they do not believe the refund orders apply to them, because they are not First Sellers.

The Lowry's indicate that they have advised Anadarko of the information stated above, but that Anadarko has not responded.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8166 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[1] 15 U.S.C. 3142(c) (1982).

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997).

[4] 82 FERC ¶ 61,059 (1998).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–63–000]

Mull Drilling Company, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 10, 1998, Mull Drilling Company, Inc. (MDC), filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA) [15 U.S.C. § 3142(c) (1982)], requesting an order from the Commission determining: (1) that MDC is only responsible for Kansas ad valorem tax refund amounts attributable to its working interest; (2) that the payment of Kansas ad valorem tax refunds will create a financial hardship for MDC and, therefore, that MDC should be permitted to amortize its refunds over a reasonable period of time; and (3) that MDC's liability for Kansas ad valorem tax refunds attributable to the Doggett oil and gas lease (Doggett) should be waived, on the basis that MDC has no ability to recoup any refunds from that lease. Absent adjustment relief, the Kansas ad valorem tax refunds are required by the Commission's September 10, 1997 order in Docket No. RP97–369–000 *et al.*[1] MDC's petition is on file with the Commission and open to public inspection.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[2] directed first sellers to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. That order also provided that first sellers could, with the Commission's prior approval, amortize their Kansas ad valorem tax refunds over a 5-year period, although interest would continue to accrue on any outstanding balance.

MDC states that it was a party to certain gas purchase contracts entered into with Panhandle Eastern Pipe Line Company (Panhandle). MDC explains that, as the operator, of the leases dedicated under those contracts, MDC acted on behalf of itself and, in some cases, third-party working interest owners. MDC adds that it passed along the funds, including the Kansas ad valorem tax reimbursement funds, to the other working interest owners, and only retained those funds attributable to its own working interest.

MDC indicates its intent to tender the undisputed principal amount to Panhandle and to place the remaining funds in an escrow account. MDC states that it was established as an operating company, and that it has limited liquid assets to satisfy these claimed amounts. MDC avers that the payment of amount in dispute to Panhandle, and deposit of the remaining amount into escrow as related to MDC's working interest ownership, creates a profound hardship for MDC. Additionally, MDC request that the refund attributable to the Doggett lease be waived, since MDC states that it has no ability to recoup any of the amounts claimed as refunds from future production for the Doggett lease, because that lease has been abandoned and is no longer operated by MDC.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 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, 385.211, 385.1105, and 385.1106). 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 be 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8167 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[1] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[2] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–163–000]

Nora Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

March 24, 1998.

Take notice that on March 20, 1998, Nora Transmission Company, (Nora) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheet to become effective April 1, 1998:

Second Revised Sheet No. 141

Nora states that the purpose of this filing is to comply Order No. 636–C, Nora has revised its General Terms and Conditions Section 24.5 to provide that the longest contract term that a shipper exercising its right of first of refusal must match is five years.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8163 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–65–000]

Pickrell Drilling Company, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 10, 1998, Pickrell Drilling Company, Inc. (Pickrell) filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[1] with respect to its Kansas ad valorem tax refund liability under Commission's September 10, 1997 order in Docket Nos. GP97–3–000, GP97–4–000, GP97–5–000, and RP97–369–000.[2] Pickrell's petition is on file with the Commission and open to public inspection

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[3] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988. The Commission's September 10 order also provided that first sellers could, with the Commission's prior approval, amortize their Kansas ad valorem tax refunds over a 5-year period, although interest would continue to accrue on any outstanding balance.

Pickrell states that the Madden and the Barby-Harper are the wells in question. According to the Statement of Refunds Due from Northern Natural Gas Company for the Kansas ad valorem tax refund, Pickrell owes a principal of $18,759.44 and interest of $37,094.76 calculated to December 31, 1997, for a total of $55,854.20. If interest is extended to March 9, 1998, the total amount due would be $56,738.68

Pickrell states that these were low-volume wells and were always economically marginal. Although the Madden produced at rates approximating 100 Mcf per day, the controlled price for its gas was very low and ranged from $0.55 to $0.69 per Mcf. The Barby-Harper was a 103 well and received NGPA maximum lawful prices during 1984, it was more expensive to operate as it was completed at a depth of below 5,000 feet and production dropped to 31 and 44 Mcf per day during 1985 and 1986.

The Madden has since been plugged and abandoned. The Barby-Harper is still producing, but actually below its economic limit at 30 Mcf per day. The operator has recently attempted to sell the lease, but has not been successful. Pickrell owned no interest in these leases or wells, but simply operated them for the benefit of the interest owners.

The working interest owners that received tax reimbursements are Barbara Oil Company, Tammie L. Burton Trust #2, Jean Ann Fausser Trust, Pickrell Acquisitions Inc, Carl W. Sebits, David Ruel Sebits Trust, David H. Tripp, James E. Stewart, Jan Lee Stewart and Virginia M. Johnson. They have refunded their proportionate shares of the principal amount under the Statement of Refunds Due, but are requesting relief from any refund of interest. Brenda C. Redfern, J. C. Anderson, Edgar S. Curry, Newport Petroleums Inc, Herschel F. Vaughn and Carless Resources Inc have been mailed notices of their share of the refunds due, but no responses have been received. Cecil Burton, Peter W. John, Dale M. Robinson, Kenton S. Stewart, Edgar C. Stewart and O. H. Stewart are deceased and estates have been closed. Century Exploration filed for bankruptcy in mid 1980's and company was liquidated. Bill J. Porter Trust was dissolved.

Pickrell states that the recovery of interest on these refunds will require years, if it will ever be recovered and that it is inequitable to require a refund of interest.

Pickrell states that the amounts due from deceased and bankrupted working interest owners are uncollectible and should be considered as waived. The amounts due for the working interest owners who are non-responsive should also be waived as uncollectible. To require payment from Pickrell would be an unfair distribution of burdens since it never received any benefit from the ad valorem tax reimbursements that were passed through to the working interest owners.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the **Federal Register** of this notice, 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, 385.211, 385.1105, and 385.1106). 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 must file a motion to intervene in accordance with the Commission's Rules.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8168 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

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[1] 15 U.S.C. 3142(c) (1982).

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–70–000]

Pickrell Drilling Company, Inc.; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 10, 1998, Pickrell Drilling Company, Inc. (Pickrell), 110 North Market–Suite 205, Wichita, Kansas 67202–1996, on behalf of the working interest owners [1] for whom it operated leases, filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[2] requesting that the Commission, grant them relief from any further refund liability not heretofore paid for the Kansas ad valorem tax reimbursements set forth in the Statement of Refunds Due (SRD) submitted to Pickrell by The Williams Companies (Williams), all as more fully set forth in the petition which is open to the public for inspection.

Pickrell states that the Barbara Oil Company, Burton Oil and Gas Properties, Vera J. Casado, Dane G. Hansen Trust, Dr. John R. Kline, Ralph S. Lightner, Carl W. Sebits, and David H. Tripp have refunded their proportionate shares of the undisputed principal amount set forth in the SRD, but are requesting that they be relieved of any refund liability for the interest. Pickrell further states that considering the low volume, marginal nature of the subject well and its circumstances, it would be a hardship on them and inequitable to require them to refund the interest where there is no chance of recouping anything further from production. Pickrell also states that this would be inequitable in view of the time that elapsed since these reimbursements were received and any request for a refund was made.

Pickrell states that Cecil Burton and Luis A. Casado are deceased and that their estates have been closed. The HWT Corporation has been dissolved. H.A. Mayor, Jr., is elderly and in poor financial condition. Pickrell requests that any amounts attributable to these interest owners should be waived. Pickrell also states that the amounts attributable to these interest owners are not collectible and that Pickrell did not receive the benefit of any portion of the refunds which were passed through to the working interest owners.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the Federal Register of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 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, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8170 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[1] Working interest owners are identified as: Barbara Oil Company, Cecil Burton (deceased), Luis A. Casado (deceased), Vera J. Casado, Dane G. Hansen Trust, Carl W. Sebits, David H. Tripp, HWT Corporation (dissolved), Dr. John R. Kline, Virginia M. Johnson, Ralph S. Lightner, H.A. Mayor, Jr., and Burton Oil and Gas Prop.

[2] 15 U.S.C. 3142(c) (1982).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–283–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

March 24, 1998.

Take notice that on March 17, 1998, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP98–283–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate a new point of delivery for AK Steel Corporation (AK Steel), an industrial end-user, in Warren County, Ohio. Texas Eastern makes such request under its blanket certificate issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Specifically, Texas Eastern proposes to install, own, operate, and maintain a new point of delivery on its existing Lebanon Lateral [1] to accommodate AK Steel in Middletown, Ohio. Texas Eastern proposes to construct and install a 10-inch tap valve and a 10-inch check valve on the existing Lebanon Lateral facility, at approximately Mile Post 60.62 in Warren County. It is stated that AK Steel will install, or cause to be installed, three 10-inch orifice meter runs plus associated piping, approximately 50 feet of 16-inch pipeline which will extend from the Meter Station to the Tap, and electronic gas measurement equipment.

Texas Eastern states that the transportation service will be rendered pursuant to Texas Eastern's open access Rate Schedules included in Texas Eastern FERC Gas Tariff, Sixth Revised Volume No. 1. It is averred that transportation service to be rendered through the delivery point proposed herein will be performed utilizing existing capacity on Texas Eastern's system, and will have no effect on Texas Eastern's peak day or annual deliveries.

Texas Eastern states that its filing of this request is in response to AK Steel's request to receive natural gas service directly from Texas Eastern. Cincinnati Gas & Electric (CG&E) is the Texas Eastern customer that currently provides interruptible service to AK Steel. AK Steel indicates that it has informed Texas Eastern that the service AK Steel receives from CG&E will terminate on December 31, 1998. The tap proposed in this request is scheduled to be available for service on or after January 1, 1999, Texas Eastern therefore submits that the installation of the tap proposed herein and the provisions of open-access service to AK Steel will not constitute a bypass of CG&E.

Project cost has been estimated to be approximately $87,000, and AK Steel has agreed to reimburse Texas Eastern's cost in full.

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

[1] The Lebanon Lateral facility is jointly owned by Texas Eastern and ANR Pipeline Company.

shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8158 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–30–000]

Transcontinental Gas Pipe Line Corporation; Notice of Refund Report

March 24, 1998.

Take notice that on March 20, 1998, Transcontinental Gas Pipe Line Corporation (Transco) filed a report reflecting the flow through of a portion of a refund received from Texas Gas Transmission Corporation (Texas Gas).

On February 26, 1998, in accordance with Section 4 of its Rate Schedule FT–NT, Transco states that it refunded to its FT–NT customers $19,466.83 resulting from a portion of a Texas Gas Refund for the period December 1, 1996 through October 31, 1997. The refund was issued as a result of the termination of Texas Gas' Transportation Cost Adjustment (TCA), as approved in the Stipulation and Agreement filed in Docket No. RP94–423 by the Letter Order issued by the Federal Energy Regulatory Commission on February 20, 1996.

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 March 31, 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. 98–8159 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. SA98–61–000]

Louis Welner and Bruce F. Welner; Notice of Petition for Adjustment

March 24, 1998.

Take notice that on March 10, 1998, Bruce F. Welner on behalf of himself and his father Louis Welner filed a petition for adjustment under section 502(c) of the Natural Gas Policy Act of 1978 (NGPA),[1] requesting to be relieved of their obligation to make Kansas ad valorem tax refunds to Northern Natural Gas Company, with respect to their working interest in wells operated in Clark County, Kansas otherwise required by the Commission's September 10, 1997 order in Docket Nos. RP97–369–000, GP97–3–000, GP97–4–000, and GP97–5–000.[2] The petition is on file with the Commission and open to public inspection.

The Commission's September 10 order on remand from the D.C. Circuit Court of Appeals[3] directed first sellers under the NGPA to make Kansas ad valorem tax refunds, with interest, for the period from 1983 to 1988.

Bruce F. Welner seeks relief for his father regarding his interest in the Bouziden well based on the following grounds:

1. Lewis Welner currently lives in a nursing home in Florida and is suffering from Alzheimer's disease.

2. Lewis Welner has been on Medicaid for the last year because his assets are depleted.

Bruce F. Welner seeks relief for himself regarding his interest in the McMinimy and Bouziden wells based on the following:

1. In May of 1988 Bruce F. Welner and his wife filed for personal bankruptcy. The two wells were used as collateral to secure a loan.

2. As a result of the bankruptcy a bank became owner of Bruce Welner's interest in the two wells.

3. The remaining unsecured oil and gas assets were sold at auction, along with Bruce Welner's personal assets. The proceeds were distributed to unsecured creditors.

Any person desiring to be heard or to make any protest with reference to said petition should on or before 15 days after the date of publication in the Federal Register of this notice, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in according with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211, 385.1105, and 385.1106). 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.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8165 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

[1] 15 U.S.C. 3142(c) (1982).

[2] See 80 FERC ¶ 61,264 (1997); order denying reh'g issued January 28, 1998, 82 FERC ¶ 61,058 (1998).

[3] *Public Service Company of Colorado* v. *FERC*, 91 F.3d 1478 (D.C. 1996), cert. denied, Nos. 96–954 and 96–1230 (65 U.S.L.W. 3751 and 3754, May 12, 1997) (Public Service).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–2226–000, et al.]

PP&L, Inc., et al.; Electric Rate and Corporate Regulation Filings

March 23, 1998.

Take notice that the following filings have been made with the Commission:

1. PP&L, Inc.

[Docket No. ER98–2226–000]

Take notice that on March 18, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated March 6, 1998, with Virginia Electric and Power Company (VEPC), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds VEPC as an eligible customer under the Tariff.

PP&L requests an effective date of March 18, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to VEPC and to the Pennsylvania Public Utility Commission.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. PP&L, Inc.

[Docket No. ER98–2227–000]

Take notice that on March 18, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated

March 12, 1998, with NESI Power Marketing, Inc. (NESI), under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds NESI as an eligible customer under the Tariff.

PP&L requests an effective date of March 18, 1998, for the Service Agreement.

PP&L states that copies of this filing have been supplied to NESI and to the Pennsylvania Public Utility Commission.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Cinergy Services, Inc.

[Docket No. ER98–2228–000]

Take notice that on March 16, 1998, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and The Dayton Power and Light Company (DP&L).

Cinergy and DP&L are requesting an effective date of one day after the filing of this Power Sales Service Agreement.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas Gas and Electric Company

[Docket No. ER98–2229–000]

Take notice that on March 18, 1998, Kansas Gas and Electric Company (KGE), tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Western Resources, Inc., under Service Schedule M to FPC Rate Schedule No. 93, for the period June 1, 1998 through May 31, 1999.

Copies of this filing were served upon the Kansas Corporation Commission.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER98–2230–000]

Take notice that PacifiCorp on March 18, 1998, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Notice of Filing of Mutual Netting/ Closeout Agreements between PacifiCorp and AIG Trading Corporation, Aquila Power Corporation, Avista Energy, Inc., Cinergy Services, Inc., ConAgra Energy Services, Inc., Duke Energy Trading & Marketing, LLC, Duke/Louis Dreyfus, LLC, Eastern Power Distribution, Inc., Electric Clearinghouse, Inc., El Paso Energy Marketing Company, Enron Power Marketing, Inc., Entergy Power Marketing Corp., Illinova Power Marketing, Inc., NorAm Energy Services, Inc., NP Energy Inc., Southern Company Energy Marketing L.P., USGen Power Services, L.P. and Williams Energy Services Company.

Copies of this filing were supplied the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Commonwealth Edison Company

[Docket No. ER98–2231–000]

Take notice that on March 18, 1998, Commonwealth Edison Company (ComEd), submitted for filing five Service Agreements establishing City Water Light & Power (CWLP), Columbia Power Marketing Corp. (CPMC), DTE Energy Trading, Inc. (DTEET), Southern Illinois Power Cooperative (SIPC), and Strategic Energy Ltd. (SE), as non-firm transmission customers under the terms of ComEd's Open Access Transmission Tariff (OATT).

ComEd requests an effective date of March 17, 1998, for the service agreements and, accordingly seeks waiver of the Commission's notice requirements. Copies of this filing were served on CWLP, CPMC, DTEET, SIPC, SE, and the Illinois Commerce Commission.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. People's Utility Corporation

[Docket No. ER98–2232–000]

Take notice that on March 18, 1998, People's Utility Corporation petitioned the Commission for acceptance of People's Utility Corporation Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission Regulations.

People's Utility Corporation intends to engage in wholesale electric power and energy purchases and sales as a marketer. People's Utility Corporation is not in the business of generating or transmitting electric power. People's Utility Corporation is a registered Electric Service Provider in the State of California.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. NGE Generation, Inc.

[Docket No. ER98–2234–000]

Take notice that NGE Generation, Inc. (NGE Gen), on March 18, 1998, tendered for filing a restated Electric Power Sales Tariff. On February 11, 1998, New York State Electric & Gas Corporation (NYSEG), transferred to its affiliate, NGE Gen, NYSEG's Electric Power Sales Tariff, FERC Electric Rate Schedule, Original Volume No. 1 (Tariff). NGE Gen requests that the restated tariff become effective on March 19, 1998, and requests a waiver of the Commission's notice requirements for good cause shown.

NGE Gen served copies of the filing upon the New York State Public Service Commission and the customers under the Tariff.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Wisconsin Public Service Corporation

[Docket No. ER98–2235–000]

Take notice that on March 18, 1998, Wisconsin Public Service Corporation tendered for filing an executed service agreement with American Electric Power Service Corp., under its Market-Based Rate Tariff.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Public Service Corporation

[Docket No. ER98–2236–000]

Take notice that on March 18, 1998, Wisconsin Public Service Corporation tendered for filing an executed service agreement with Illinois Power Company under its Market-Based Rate Tariff.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. MidAmerican Energy Company

[Docket No. ER98–2237–000]

Take notice that on March 18, 1998, MidAmerican Energy Company (MidAmerican), 666 Grand Avenue, Des Moines, Iowa 50309, filed with the Commission a Firm Transmission Service Agreement with ConAgra Energy Services, Inc. (ConAgra), dated March 6, 1998, and Non-Firm Transmission Service Agreements with ConAgra dated February 27, 1998, and PECO Energy Company (PECO), dated March 12, 1998, entered into pursuant to MidAmerican's Open Access Transmission Tariff.

MidAmerican requests an effective date of March 6, 1998, for the Firm Transmission Service Agreement with ConAgra, February 27, 1998, for the Non-Firm Transmission Service Agreement with ConAgra, and March 12, 1998, for the Non-Firm Transmission Service Agreement with PECO and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on ConAgra, PECO, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Long Island Lighting Company

[Docket No. ER98–2238–000]

Take notice that on March 18, 1998, Long Island Lighting Company (LILCO), filed a Service Agreement for Non-Firm Point-to-Point Transmission Service between LILCO and PP&L, Inc., (Transmission Customer).

The Service Agreement specifies that the Transmission Customer has agreed to the rates, terms and conditions of LILCO's open access transmission tariff filed on July 9, 1996, in Docket No. OA96–38–000.

LILCO requests waiver of the Commission's sixty (60) day notice requirements and an effective date of March 13, 1998, for the Service Agreement. LILCO has served copies of the filing on the New York State Public Service Commission and on the Transmission Customer.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Virginia Electric and Power Company

[Docket No. ER98–2239–000]

Take notice that on March 18, 1998, Virginia Electric and Power Company (Virginia Power), tendered for filing the Service Agreement between Virginia Electric and Power Company and South Jersey Energy Company under the FERC Electric Tariff (First Revised Volume No. 4), which was accepted by order of the Commission dated November 6, 1997 in Docket No. ER97–3561–001. Under the tendered Service Agreement, Virginia Power will provide services to South Jersey Energy Company under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of March 18, 1998, for the Service Agreement.

Copies of the filing were served upon South Jersey Energy Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: April 7, 1998, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection.

David P. Boergers

Acting Secretary.

[FR Doc. 98–8192 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11509–000 Oregon]

City of Albany, Oregon; Notice of Availability of Draft Environmental Assessment

March 24, 1998.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for an original license for the City of Albany, Oregon Hydroelectric Project, and has prepared a Draft Environmental Assessment (DEA) for the project. The project is located on the South Santiam River, Albany-Santiam canal, and Calapooia River in the cities of Lebanon and Albany, Linn County, Oregon. The DEA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Room, Room 2A, of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to David P. Boergers, Acting Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. For further information, contact Nicholas Jayjack, Environmental Coordinator, at (202) 219–2825.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8160 Filed 3–27–98; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL98–4–000]

Symposium on Process and Reform: Commission Complaint Procedures; Supplemental Notice Organizing Symposium

March 24, 1998.

On March 10, 1998, the Commission announced its intention to host a symposium on March 30, 1998, to discuss the Commission's complaint procedures in order to determine (1) how well the Commission's current procedures are working, (2) whether changes to the current complaint procedures are appropriate, and (3) what type of changes should be made. In this supplemental notice, the Commission announces the format of the round-table discussion to be used at the symposium, and the organization of the participants. All those who have requested to participate are being included.

The Commission's intention is to have a free-flowing discussion unbound by formal, timed statements. The Commission is interested in discussing, among other things, the requirements that should be imposed on parties filing complaints as well as the Commission's internal and formal complaint processes. To make the discussion manageable, there will be two panels. One panel will consist primarily of representatives of the oil pipeline and natural gas industries. The other panel will consist primarily of members of the electric industry, as well as others. The issues addressed by each panel need not be limited to those affecting a particular industry. The Commission has selected two members of each panel to present their views and proposals in order to

open the discussion. All members of each panel, however, are encouraged to fully participate in the discussion. The members of each panel are listed below. The opening presenters for each panel are designated by an asterisk.

The schedule and composition of the panels are as follows:

Panel I 1:00–2:45 p.m.

Fred Moring, Pipeline Customer Coalition *
Peggy Heeg, Interstate Natural Gas Association of America *
Randall Rich, Independent Oil & Gas Association of West Virginia
Representative from Duke Energy Pipelines
David Sweet, Independent Petroleum Association of America
Katherine Edwards, Amoco Energy Trading Corporation, Amoco Production Company, Burlington Resources Oil & Gas Company, and Marathon Oil Company
Representative from the Public Service Commission of the State of New York
Representative from the Association of Oil Pipelines
D. Jane Drennan, Chevron Products Company

Panel II 3:15–5:00 p.m.

Representative of Electric Power Supply Association *
Representative of Edison Electric Institute *
Susan N. Kelly, National Rural Electric Cooperative Association
Representative from the American Public Power Association
Jeffrey D. Watkiss, Coalition for a Competitive Electric Market
Gordon Gooch, Travis & Gooch
Representative of the American Arbitration Association

The symposium will begin at 1:00 p.m. in the Commission Meeting Room, Room 2C, 888 First Street, NE., Washington, DC 20426. Speakers that have audio/visual requirements should contact Wanda Washington at (202) 208–1460, no later than March 26, 1998.

The Capitol Connection will broadcast live the audio from the public conference on its wireless cable system in the Washington, DC area. If there is sufficient interest from those outside the Washington, DC metropolitan area, the Capitol Connection may broadcast the conference live via satellite for a fee. Persons interested in receiving the audio broadcast, or who need more information, should contact Shirley Al-Jarnai or Julia Morelli at the Capitol Connection at (703) 993–3100, no later than noon on March 25, 1998.

In addition, National Narrowcast Network's Hearing-On-The-Line service covers all FERC meetings live by telephone. Call (202) 966–2211 for details. Billing is based on time on-line.

The Commission will also afford an opportunity for persons to file written comments in response to discussion at the symposium. Those wishing to file comments should do so by April 14, 1998.

FOR FURTHER INFORMATION CONTACT: David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 208–1275.

By direction of the Commission.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–8193 Filed 3–27–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5988–8]

National Advisory Council for Environmental Policy and Technology—Total Maximum Daily Load Committee: Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: Under the Federal Advisory Committee Act, PL 92463, EPA gives notice of a three day meeting of the National Advisory Council for Environmental Policy and Technology's (NACEPT) Total Maximum Daily Load (TMDL) Committee. NACEPT provides advice and recommendations to the Administrator of EPA on a broad range of environmental policy issues. The TMDL Committee has been charged to provide recommendations for actions which will lead to a substantially more effective TMDL program. This meeting is being held to enable the Committee and EPA to hear the views and obtain the advice of a widely diverse group of stakeholders in the national Water Program.

In conjunction with the three day meeting, the FACA Committee members and the EPA will host one meeting designed to afford the general public greater opportunity to express its views on TMDL and water related issues.

DATES: The three day public meeting will be held on May 4–6, 1998, at the Westin Atlanta North at Perimeter Hotel, Seven Concourse Parkway, Atlanta, Georgia 30328, (770) 395–3940. The full Committee meeting is scheduled to begin Monday, May 4, 1998, at 9 a.m. and conclude at 5:30 p.m. The meeting will reconvene at 8:30 a.m. on Tuesday, May 5, 1998, and is scheduled to adjourn at 5:00 p.m. On Wednesday, May 6, 1998, the meeting will reconvene at 8:30 a.m. and conclude at 3:00 p.m.

The public input session is scheduled in conjunction with the full Committee meeting and will also be held at the Westin Atlanta North at Perimeter. It will occur on Monday, May 4, 1998, from 7:30 p.m. until 9 p.m.

ADDRESSES: Materials or written comments may be transmitted to the Committee through Hazel Groman , Designated Federal Officer, NACEPT/TMDL, U.S. EPA, Office of Water, Office of Wetlands, Oceans, and Watersheds, Assessment and Watershed Protection Division (4503F), 401 M Street, SW, Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Hazel Groman, Designated Federal Officer for the Total Maximum Daily Load Committee at 202–260–8798.

Dated: March 17, 1998.

Hazel Groman,

Designated Federal Officer.

[FR Doc. 98–8217 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–400119; FRL–5752–6]

Methyl Ethyl Ketone; Toxic Chemical Release Reporting; Community Right-to-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Denial of petition.

SUMMARY: EPA is denying a petition to remove methyl ethyl ketone (MEK) from the list of chemicals subject to the reporting requirements under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA) and section 6607 of the Pollution Prevention Act of 1990 (PPA). EPA has reviewed the available data on this chemical and has determined that MEK does not meet the deletion criterion of EPCRA section 313(d)(3). Specifically, EPA is denying this petition because EPA's review of the petition and available information resulted in the conclusion that MEK meets the listing criteria of EPCRA section 313(d)(2)(B) and (C) due to its contribution to the formation of ozone in the environment, which causes adverse human health and environmental effects.

FOR FURTHER INFORMATION CONTACT: Daniel R. Bushman, Petitions

Coordinator, 202–260–3882 or e-mail: bushman.daniel@epamail.epa.gov, for specific information regarding this document or for further information on EPCRA section 313, the Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail code 5101, 401 M St., SW., Washington, DC 20460, Toll free: 1–800–535–0202, in Virginia and Alaska: 703–412–9877, or Toll free TDD: 1–800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is taken under sections 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), 42 U.S.C. 11023. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99–499).

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using listed toxic chemicals in amounts above reporting threshold levels, to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act of 1990 (PPA), 42 U.S.C. 13106. Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. MEK was included on the initial list. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. EPA has added and deleted chemicals from the original statutory list. Under section 313(e)(1), any person may petition EPA to add chemicals to or delete chemicals from the list. Pursuant to EPCRA section 313(e)(1), EPA must respond to petitions within 180 days, either by initiating a rulemaking or by publishing an explanation of why the petition is denied.

EPCRA section 313(d)(2) states that a chemical may be listed if any of the listing criteria are met. Therefore, in order to add a chemical, EPA must demonstrate that at least one criterion is met, but does not need to examine whether all other criteria are also met. Conversely, in order to remove a chemical from the list, EPA must demonstrate that none of the criteria are met.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for submitting petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compounds categories. EPA has also published a statement clarifying its interpretation of the section 313(d)(2) and (3) criteria for adding and deleting chemical substances from the section 313 list (59 FR 61432, November 30, 1994) (FRL–4922–2).

II. Description of Petition and Regulatory Status of Methyl Ethyl Ketone

MEK is on the list of toxic chemicals subject to the annual release reporting requirements of EPCRA section 313 and PPA section 6607. MEK was among the list of chemicals placed under EPCRA section 313 by Congress. MEK is subject to the Clean Air Act (CAA) as a volatile organic compound (VOC) and a hazardous air pollutant. MEK is also on the Hazardous Waste Constituents List under the Resource Conservation and Recovery Act (RCRA).

On November 26, 1996, EPA received a petition from the Ketones Panel of the Chemical Manufacturers Association (CMA), to delete MEK from the list of chemicals reportable under EPCRA section 313 and PPA section 6607. CMA had submitted a petition to delete MEK and methyl isobutyl ketone (MIBK) from the EPCRA section 313 reporting requirements in September 1988, but this petition was subsequently withdrawn because the petitioner became aware of the Agency's concerns for developmental toxicity and neurotoxicity. The current petitioner states that since that time, EPA's concern for these effects has decreased. Therefore, the petitioner argues that MEK does not meet any of the listing criteria, and should be removed from the reporting requirements of EPCRA section 313.

Specifically, the Panel believes that MEK is not known to cause, nor can it reasonably be anticipated to cause, significant adverse acute health effects at exposure levels that are likely to occur beyond industrial site boundaries as a result of continuous or frequently recurring releases. They also state that MEK "is not known to cause and cannot reasonably be anticipated to cause, significant chronic health effects in humans." They state that EPA's Integrated Risk Information System (IRIS) data base recognizes that MEK "has little if any neurotoxic potential." In addition, the Panel discusses in the petition that based upon several developmental toxicity studies that have been conducted, EPA should use a revised reference concentration (RfC), based upon EPA modified guidance for conducting risk assessments. The petitioner argues that MEK also does not cause the type of adverse environmental effects that warrant reporting under section 313.

Significant to the deliberations surrounding this petition review, is MEK's status as a VOC. The petitioner argues for a revised interpretation of the EPCRA section 313 VOC policy, contending that EPA does not have the statutory authority to list chemicals based upon "indirect" toxicity. The petitioner further contends that: (1) There are more effective ways to gather VOC emissions data; (2) EPA has other, more efficient, tools than the Toxics Release Inventory (TRI) for disseminating VOC emissions data; (3) TRI data are not used to support VOC emissions control programs; (4) the act of including non-toxic VOCs on the TRI may actually be counter productive, by providing disincentives for switching to these less toxic VOCs; and, (5) releases of MEK in ozone non-attainment areas do not justify a nationwide reporting requirement (Ref. 1).

III. EPA's Technical Review of Methyl Ethyl Ketone

The technical review of the petition to delete MEK from the reporting requirements of EPCRA section 313 included an analysis of the available chemistry, health effects, ecological effects, and environmental fate data for MEK.

A. Chemistry and Use

MEK, also known as 2-butanone, ethyl methyl ketone, and methyl acetone, is the largest volume commercially produced ketone other than acetone. It is a clear, colorless, stable, low-boiling (79.6 °C), highly volatile (vapor pressure 90.6 torr at 25 °C) and highly flammable (flash point 1 °C, autoignition temperature 515 °C) liquid with an acetone-like odor. It is very soluble in water (240 grams per liter (g/l) at 20 °C), miscible with organic solvents, and forms azeotropes with water and many organic liquids. MEK has exceptionally high solvent power and is a good solvent for many natural and synthetic resins. It is used as a solvent in the surface coatings industry, specifically in vinyl lacquers, nitrocellulose lacquers, and acrylics. It is used mainly in surface coatings and is also used as a chemical intermediate. It is also used as a solvent for adhesives, printing inks, degreasing and cleaning fluids, smokeless powder,

and as an intermediate in the production of antioxidants, perfumes, and catalysts (Ref. 2).

Most MEK is produced by a two-step process from petroleum derived butene/butane mixtures (Ref. 3). MEK is also available as a by-product from liquid phase oxidation of butane to acetic acid and is produced by direct oxidation of n-butenes.

There were 545 million pounds of MEK produced in the U.S. in 1994 and 16 million pounds were imported. Domestic production capacity is projected to increase to 595 million pounds in 1997. Three producers, Exxon Chemical, Hoechst-Celanese, and Shell Chemical, have been identified. Domestic consumption was 388 million pounds in 1994. More than half of the MEK consumed in the U.S. (60 percent) was used as a solvent for protective coatings, as virtually all natural and synthetic resins used in lacquers are soluble in MEK. The next largest use of MEK (14 percent) was in solvent-based adhesives, such as rubber cement. MEK was employed as a solvent in the manufacture of magnetic tapes (10 percent), and as a dewaxing agent in the refining of lubricating oil (5 percent). As a chemical intermediate (5 percent), MEK was used to produce perfumes, antioxidants, catalysts, peroxides, and diacetal. Three percent of the MEK consumed domestically was for printing ink, while another three percent was used for miscellaneous purposes, such as paint removal (Refs. 1 and 4).

Substitutes for MEK have been investigated by coating formulators with mixed success. Alternative technologies include 100 percent solvent products, water-based resins systems, and reformulated solvent blends. Ethyl acetate in some cases is a drop-in substitute for MEK with no significant change in properties. Butyl acetate and isobutyl acetate can be used in many formulations as partial or full substitutes for MEK. A blend of acetone and MIBK is also used as a MEK substitute. Water-based and 100 percent solid coating systems may also be substituted for MEK solvents. MEK is likely to remain in use, particularly in high quality applications, unless alternative systems are further developed (Ref. 4).

B. Metabolism and Absorption

MEK is well absorbed from the lung, gastrointestinal (GI) tract, and skin. Pulmonary uptake in humans ranged from 41 percent to 56 percent. Case reports in humans and/or studies in rats demonstrate that MEK is absorbed from the GI tract and the skin (Ref. 5).

C. Toxicological Evaluation

1. *Acute toxicity.* Available data indicate that MEK has low acute toxicity. In humans, inhalation of high doses produces irritation of the eyes and upper and lower respiratory system, effects characteristic of solvent exposure (Ref. 6).

2. *Subchronic and chronic toxicity.* Available data indicate that MEK has low chronic toxicity. Although no chronic exposure studies have been found, several well-designed repeated-dose oral and inhalation studies in laboratory animals demonstrate low systemic toxicity with MEK. The Occupational Safety and Health Administration (OSHA) Permissible Exposure Level (PEL) for MEK is 200 parts per million (ppm), or about 589 milligrams per cubic meter (mg/m^3). EPA's current RfC of 1.0 mg/m^3 (or approximately 968 milligrams per kilogram per day (mg/kg/day)) for MEK is based on a developmental toxicity study in mice (Refs. 6 and 7).

a. *Carcinogenicity.* MEK is classified in EPA's IRIS data base (Ref. 8) as category D, not classifiable as to human carcinogenicity, based on no human carcinogenicity data and inadequate animal data (Ref. 6).

b. *Mutagenicity.* There is a wealth of mutagenicity information on MEK submitted pursuant to section 4 of the Toxic Substances Control Act (TSCA). MEK was negative in the Ames assay with and without activation. It induced chromosome mutations (aneuploidy) in yeast cells. It also induced cell transformation in BALB/c cells. It was also negative in the UDS assay, for sister chromatid exchange (SCE's) in Chinese Hamster Ovary (CHO) cells, in the mouse micronucleus assay, for gene mutations in *E. coli*, in the mouse lymphoma assay, and for chromosome aberrations in CHO cells (Ref. 6).

c. *Developmental toxicity.* Not available at the time of the first petition on MEK, is an inhalation developmental toxicity study in Swiss mice. This is the key study, on which the RfC is based (Ref. 7). In the study, four groups of 10 virgin and 33 pregnant mice were exposed to 0, 398, 1,010, or 3,020 ppm (0, 1,174, 2,978, or 8,906 mg/m^3) MEK for 7 hours per day (hr/day) during gestation days 6-15. Neither maternal nor developmental toxicity was observed at the low or mid doses. At 3,020 ppm, there was a decrease in fetal body weight that was significant only in males and a significant trend in the incidence of misaligned sternebrae when measured on a fetus, but not litter basis. At this dose there was also an increase in maternal relative liver and kidney weight, but the biological significance of this effect is not known.

Based on the dose level at which these effects were observed, the concern for developmental toxicity appears to be low. The Lowest Observed Adverse Effect Level (LOAEL) is 3,020 ppm (approximately 2,898 mg/kg/day) and the No Observed Adverse Effect Level (NOAEL) is 1,010 ppm (968 mg/kg/day).

The two inhalation studies in rats that formed the basis of concern at the time of the first petition were both conducted by the same group of researchers and in the same laboratory. In the first study (Ref. 7), animals were exposed to MEK at 0, 1,126, or 2,618 ppm (0, 3,320, or 7,720 mg/m^3). At the low dose, there was a decrease in fetal body weight and crown:rump length; these effects were not seen at the high dose. There was also a significant increase in total number of litters containing fetuses with skeletal anomalies. At the high dose, there was a significant increase in number of fetuses and litters having gross anomalies. Maternal toxicity was not observed. The LOAEL from this study is 1,126 ppm.

The second study (Ref. 9) was conducted to determine the repeatability of the above findings. Exposures to MEK were 0, 412, 1,002, or 3,005 ppm (0, 1,215, 2,955, or 8,861 mg/m^3). No effects were seen at the low or mid dose. At the high dose, there was delayed ossification of bones in the skull and cervical centra and an increase in the incidence of extralumbar ribs. There was also decreased maternal body weight gain and increased water consumption at the high dose. The NOAEL from this study is 1,002 ppm, and the LOAEL is 3,005 ppm (Ref. 6).

d. *Reproductive toxicity.* Reproductive toxicity data on MEK could not be found. There is a two-generation rat study with 2-butanol (a metabolic precursor to MEK) in which Wistar rats (30/sex/group) were given 0, 0.3 percent, 1.0 percent, or 3.0 percent in drinking water (Ref. 10). Because of significant toxicity seen in the high-dose group, treatment of high-dose parents and offspring was reduced to 2.0 percent. The critical effect was decreased fetal birth weight at the 2.0 percent dose.

Based on the dose level at which these effects were observed, the concern for reproductive toxicity appears to be low. The LOAEL for 2-butanol is 2.0 percent (3,122 mg/kg/day) and the NOAEL is 1.0 percent (1,771 mg/kg/day) (Ref. 6).

e. *Neurotoxicity.* According to the latest IRIS report on MEK, which was updated in June 1993, "at present, there is no convincing experimental evidence

that MEK is neurotoxic. . .other than possibly inducing central nervous system depression at high exposure levels" (Ref. 8). The prior neurotoxicity concerns identified for MEK were based on enhancement of the neurotoxicity of other solvents, such as n-hexane, by MEK (Ref. 11).

f. *Toxicity related to ozone formation.* MEK is a volatile organic compound and, as such, has the potential to contribute to the formation of ozone in the troposphere (i.e., the lower atmosphere). As EPA has previously stated, ozone can affect structure, function, metabolism, pulmonary defense against bacterial infection, and extrapulmonary effects (Ref. 12). Among these extrapulmonary effects are: (1) Cardiovascular effects; (2) reproductive and teratological effects; (3) central nervous system effects; (4) alterations in red blood cell morphology; (5) enzymatic activity; and (6) cytogenetic effects on circulating lymphocytes.

3. *Ecotoxicity.* MEK is toxic to aquatic organisms at relatively high concentrations. The fish 96–hour lethal concentration for 50 percent of the testing sample (LC_{50}) range from 2,300 to 3,220 ppm; the daphnid 48–hour LC_{50}s range from 2,200 to 5,091 ppm, and the green algal 96–hour effective concentration for 50 percent of the population (EC_{50}) is 1,200 ppm. The fish chronic values range from 220 to 300 ppm, the daphnid chronic value is 52 ppm, and the algal chronic value is 45 ppm. MEK's calculated bioconcentration factor, 0.640, is low (Ref. 13).

As a VOC, MEK contributes to the formation of ozone in the environment. As EPA has previously stated, ozone's effects on green plants include injury to foliage, reductions in growth, losses in yield, alterations in reproductive capacity, and alterations in susceptibility to pests and pathogens (Ref. 12). Based on the known interrelationships of different components of ecosystems, such effects, if of sufficient magnitude, may potentially lead to irreversible changes of sweeping nature to ecosystems.

D. Exposure Review

1. *Exposure assessment.* The available data indicate that MEK can cause chronic developmental toxicity at moderately high to high doses. Because there is a possibility that the developmental effects associated with exposures to relatively high concentrations of MEK could be caused by short-term exposures, an exposure assessment was conducted. The exposure assessment was conducted only to determine the potential for adverse chronic developmental effects to occur as a result of concentrations of MEK that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring, releases from facility sites (Ref. 14). For a discussion of the use of exposure in EPCRA section 313 listing and delisting decisions, refer to the **Federal Register** of November 30, 1994 (Ref. 12).

MEK releases were retrieved from the Toxics Release Inventory System (TRIS) data base. There were 2,389 TRI reports submitted for MEK in 1994. Most of the industrial releases are to air. Total quantities released to air, water, and land in 1994 were 78,624,939 pounds, 108,163 pounds, and 51,794 pounds, respectively. Thus, since most releases of MEK are to air, only airborne exposures were considered. Furthermore, because the critical effect is developmental toxicity, which can be initiated upon acute exposure, acute ambient concentrations estimated by the Point Plume (PTPLU) model were the exposure concentrations examined.

This procedure generates estimates of concentrations and exposures under three different scenarios that include a variety of wind conditions, one of which is a relatively stagnant situation. These three scenarios have been labeled: (1) The typical scenario, (2) the stagnant scenario, and (3) the maximum scenario. The model does not consider decay of the chemical in the environment.

A combination of both conservative and non-conservative assumptions were used to generate the exposure estimates with the PTPLU model. The conservative assumptions include the use of weather station data known to generate the highest concentrations and therefore potential exposures, as well as the use of a 24–hour exposure duration. Non-conservative assumptions include the assumption that TRI releases are spread over 365 days per year, 24 hours a day, and a 24–hour averaging time for concentration estimates. Given a shorter release period, estimated exposures could be significantly higher.

Estimates of acute ambient concentrations resulting from stack releases from five discharging facilities range from 3.0 to 9.0 mg/m^3 for a "typical" scenario; 6.0 to 17.0 mg/m^3 for a "stagnant" (no wind) scenario; and, 37 to 103 mg/m^3 for the maximum scenario. Acute ambient concentrations resulting from fugitive releases from five discharging facilities range from 5.0 to 12 mg/m^3 for a typical scenario; 40.0 to 110 mg/m^3 for a stagnant scenario; and, 100 to 240 mg/m^3 for the maximum scenario (Ref. 14).

2. *Exposure evaluation.* The exposure estimates illustrated in this assessment utilize release information submitted under TRI and standard modeling techniques to derive ambient air concentrations of MEK under three release scenarios (typical, stagnant, and maximum or peak) for the top releasing facilities for each type of release, fugitive and stack. Release estimate data are evaluated as to whether they exceed an Agency accepted RfC or reference dose (RfD), respectively, or when appropriate, a Margin of Exposure (MOE).

The IRIS RfC for MEK is based on mild, but significant developmental toxicity (decreased fetal body weight and misaligned sternebrae). An RfC represents an estimate of a daily inhalation exposure of the human population that is likely to be without appreciable risk of deleterious effects during a lifetime. The RfC makes adjustments to account for uncertainties about portal of entry and long-term exposure effects. Because developmental effects are an endpoint of concern for this chemical, it would not be appropriate to use the RfC for assessing the potential risk of developmental toxicity associated with acute exposure to MEK because the RfC is set for long-term exposures. It would be appropriate to derive an RfC_{DT} and compare it to the estimated human exposure concentration; however, there is no official Agency RfC_{DT}. Therefore, a MOE approach was used. The rationale for following this approach is that developmental toxicity requires assessment of short-term exposures (Ref. 6).

A MOE calculation is used in instances of non-cancer endpoints and is essentially a ratio of the NOAEL and the estimated exposure to the particular chemical, including any modifying factors on the exposure. The resultant value is then compared to the product of the uncertainty factors which are selected for the chemical of interest. Uncertainty factors are generally factors of 10 with each factor representing a specific area of uncertainty in the available data. For MEK, a factor of 10 was used to account for the possible differences in responsiveness between humans and animals in prolonged exposure studies, and a second factor of 10 was used to account for variation in susceptibility among individuals in the human population. The resultant uncertainty factor of 100 was therefore used in this assessment (Ref. 6).

The calculated MOE includes the NOAEL (ca. 1,380 mg/kg/day) from the mouse developmental study divided by the acute estimated Average Potential

Dose Rates (APDRs). The MOE is greater than 100 for stack releases under all three scenarios typical, stagnant, and maximum. The MOE is greater than 100 for fugitive releases in all three scenarios except one discharging facility under stagnant scenarios. It should be noted that the exposure estimates are based on facility release estimates, which generally are not the result of monitoring studies. Also, the APDRs assume that the target population is exposed to ambient (outdoor) air continuously. Thus, the exposure characterization reflects potential concerns engendered by estimated high exposures. Using these assumptions, the assessment illustrated that exposure concentrations do not exceed the MOE, except for one scenario (Ref. 6).

In summary, based on the concentrations likely to exist beyond facility site boundaries and the resulting MOE calculations, there is low concern for a potential for developmental effects for the general population as a result of direct toxicity following acute inhalation exposures to MEK. Furthermore, based on the developmental effects observed, if the MOE were calculated on the basis of a benchmark dose instead of the apparent NOAEL from the developmental toxicity study, the concern for potential developmental effects would be further weakened, if not eliminated. Therefore, under the exposure conditions described here, there appears to be low potential for developmental effects associated with exposure to MEK (Ref. 6).

IV. Summary of Technical Review

The hazard assessment strongly indicates that, except for VOC concerns, MEK has low acute and chronic (systemic) toxicity in that effects occur only at high doses. Specifically, developmental toxicity for MEK is characterized by high dose effects and lack of consistency between studies for one species. The exposure assessment, conducted only for developmental effects, indicates a low potential for these effects to occur from reported releases of MEK from TRI facilities under the conditions modeled. Thus, based on EPA's modeling, TRI reported releases of MEK are not expected to be sufficient to cause the type of high dose developmental effects associated with MEK. The available data do indicate that MEK can enhance the neurotoxicity of other solvents such as n-hexane; however, at this time EPA has not made a final determination as to the significance of this effect with regard to the EPCRA section 313(d)(2) criterion. MEK has low direct environmental toxicity. MEK is however a high volume VOC that contributes to the formation of tropospheric ozone which can cause significant adverse effects to human health and the environment.

V. Rationale for Denial

EPA is denying the petition submitted by the Ketones Panel of the CMA to delete MEK from the EPCRA section 313 list of toxic chemicals. This denial is based on EPA's conclusion that VOCs, such as MEK, contribute to the formation of tropospheric ozone which is known to cause significant adverse effects to human health and the environment. Therefore, EPA has concluded that MEK meets the listing criteria of EPCRA section 313(d)(2)(B) and (C) because MEK contributes to the formation of ozone which causes serious adverse human health and environmental effects at relatively low doses. EPA has previously stated that ozone meets the listing criteria of EPCRA section 313(d)(2)(B) and (C) (59 FR 61432, November 30, 1994). EPA has stated in prior **Federal Register** notices (54 FR 4072, January 27, 1989; 54 FR 10668, March 15, 1989; 59 FR 49888, September 30, 1994; and 60 FR 31643, June 16, 1995) that because VOCs contribute to the formation of tropospheric ozone they meet the criteria for listing under EPCRA section 313. EPA has also stated (54 FR 4072, January 27, 1989 and 54 FR 10668, March 15, 1989) that while it is not EPA's intention to include all VOC chemicals on the EPCRA section 313 list, those VOCs whose volume of use or emissions are large enough to raise substantial VOC concerns would be retained on the EPCRA section 313 list. MEK is a VOC with both a high production volume and high air emissions. Therefore, EPA has determined that MEK should remain on the EPCRA section 313 list of toxic chemicals. EPA intends to provide further clarification of its EPCRA section 313 VOC policy in a future **Federal Register** notice.

EPA has previously determined (59 FR 61432, November 30, 1994) that ozone has moderately high to high chronic toxicity and high environmental toxicity. Therefore, in accordance with EPA's stated policy on the use of exposure assessments (59 FR 61432, November 30, 1994), EPA does not believe that an exposure assessment is necessary to conclude that MEK, since it contributes to the formation of ozone, meets the toxicity criteria of EPCRA section 313(d)(2)(B) and (C).

EPA disagrees with the petitioner's contention that "indirect toxicity," such as that caused by VOCs, does not meet the EPCRA section 313 listing criteria. The EPCRA section 313(d)(2) listing criteria each state that EPA may list a chemical that it determines "is known to cause or can reasonably be anticipated to cause" the relevant adverse human health or environmental effect. It further provides that "[a] determination under this paragraph shall be based on generally accepted scientific principles." Ultimately, the crux of the issue the petitioner raises lies in interpreting the phrase "cause or can reasonably be anticipated to cause," which Congress chose not to define. In arguing that EPA lacks the statutory authority to base its listing decisions on "indirect toxicity," the petitioner would have the Agency adopt an artificially narrow view of causation that would require a single-step path between exposure to the toxic chemical and the effect. Such a mechanistic approach confuses the mode or mechanism of the chemical's action (i.e., the chain of causation) with the fundamental question of whether, regardless of the number of intervening steps, there is a natural and continuous line, unbroken by any intervening causes, between exposure to the chemical and the toxic effect. By contrast, EPA believes that Congress granted the Agency broad discretion in making listing decisions and directed EPA to rely on generally accepted scientific principles in making determinations to implement this section of EPCRA.

It is a generally accepted scientific principle that causality need not be linear, i.e., a one-step process (e.g., Proposed Guidelines for Ecological Risk Assessment, September 9, 1996, 61 FR 47552 and 47586; Proposed Guidelines for Carcinogen Risk Assessment, April 23, 1996, 61 FR 17960 and 17981). For purposes of EPCRA section 313, the distinction between direct and indirect effects is technically an artificial one. Whether the toxic effect is caused directly by a chemical by a one-step process, or indirectly by a degradation product of the chemical or by a second chemical that is created through chemical reactions involving the first chemical, the toxic effect still occurs as a result of the presence of the chemical in the environment. It makes no difference to the affected organism whether the toxic agent was a result of chemical reactions. Fundamentally, EPCRA section 313 is concerned with adverse effects on humans and the environment, not the chain of causation by which such effects occur. In fact, this type of "indirect" toxicity is not unlike the effects of certain nonlinear carcinogens. Some carcinogens induce

cancer through a two-step mechanism in which the chemical causes an intervening pathological change, and this pathological change is the direct cause of the cancer, but this does not mean that the chemical is not known or reasonably anticipated to cause cancer. It is therefore reasonable for EPA to consider such effects in light of the broad statutory purpose to inform the public about releases to the environment. Were EPA to exclude indirect effects from consideration, it would dilute the purpose of the statute by precluding public access to information about chemicals that cause a wide range of adverse health and environmental effects.

VI. References

1. CMA. Petition of the Chemical Manufacturers Association Ketones Panel to Delist Methyl Ethyl Ketone Under Section 313 of the Emergency Planning and Community Right-to-Know Act of 1986. Chemical Manufacturers Association. (November 27, 1996).

2. USEPA, OPPT. Tou, Jenny; "Chemistry Report on Methyl Ethyl Ketone, EPCRA 313 Delisting Petition." (March 10, 1997).

3. Kirk-Othmer Encyclopedia of Chemical Technology, 3rd. Edition, Vol. 13 (1981), Vol. 21 (1983), and 4th Edition, Vol. 4 (1992), John Wiley Sons, New York.

4. USEPA, OPPT. Wise, Sherry; "Economic Analysis of the Proposed Deletion of Methyl Ethyl Ketone from the EPCRA 313 List of Toxic Chemicals." (February 10, 1997).

5. USEPA, OPPT. Keifer, Leonard; "Absorption Review for Methyl Ethyl Ketone (MEK)." (January 22, 1997).

6. USEPA, OPPT. Hernandez, Oscar; "Health Hazard Assessment: Delist Petition for MEK." (June 1, 1997).

7. Schwetz, B.A., et al., "Developmental Toxicity of Inhaled Methyl Ethyl Ketone in Swiss Mice." Fund. and Appl. Toxicol. v. 16 (1991), pp. 742-748.

8. IRIS, 1993. U.S. Environmental Protection Agency's Integrated Risk Information System file pertaining to methyl ethyl ketone.

9. Deacon, M.M., M.D. Pilny, J.A. John, et al., "Embryo- and Fetotoxicity of Inhaled Methyl Ethyl Ketone in Rats." Toxicol. Appl. Pharmacol. v. 59. (1981), pp. 620-622.

10. Cox et al, 1975. "Toxicity Studies in Rats with 2-Butanol Including Growth, Reproduction and Teretologic Observations." Food and Drug Research Laboratories, Inc. Rpt. 91MR-R 1673.

11. USEPA, OPPT. Memorandum from Lois Dicker, Ph.D., Chief, Existing Chemicals Assessment Branch, Risk Assessment Division. Subject: Review of the Interactive Effects of Methyl Ethyl Ketone (MEK) with Neurotoxic Solvents: Response to OSHA/NIOSH Comments. (October 6, 1997).

12. USEPA. "Addition of Certain Chemicals." Proposed rule, (59 FR 1788, January 12, 1994).

13. USEPA, OPPT. Nabholtz, J.V.; "Delisting Petition for Methyl Ethyl Ketone: Environmental Toxicity." (December 10, 1996).

14. USEPA, OPPT. Powers, Mary; "Exposure Assessment for Methyl Ethyl Ketone." (June 2, 1997).

VII. Administrative Record

The record supporting this decision is contained in docket control number OPPTS–400119. All documents, including the references listed in Unit VI. of this document and an index of the docket, are available to the public in the TSCA Non-Confidential Information Center (NCIC), also known as the Public Docket Office, from noon to 4 p.m., Monday through Friday, excluding legal holidays. The TSCA NCIC is located at EPA Headquarters, Rm. NE–B607, 401 M St., SW., Washington, DC 20460.

List of Subjects

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, and Toxic chemicals.

Dated: March 19, 1998.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 98–8208 Filed 3–27–98; 8:45 am]

BILLING CODE 6560–50–F

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States (Export-Import Bank).

SUMMARY: The Advisory Committee was established by Public Law 98–181, November 30, 1983, to advise Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank of the United States to Congress.

TIME AND PLACE: Tuesday, April 14, 1998, at 9:30 a.m. to 3:15 p.m. The meeting will be held at the Export-Import Bank in room 1143, 811 Vermont Avenue, NW, Washington, D.C. 20571.

AGENDA: The meeting will include a discussion of the following: the capacity of commercial banks to step up to some risk in the medium term in order to set the stage for the use of delegated authority; the availability of information from the exporter community on the net employment impact of a change in the foreign content policy; the ability of financial intermediaries in project finance cases to take on operational and risk-sharing roles that neutralize the administrative and program budget implications of offering pre-completion comprehensive cover; and the adequacy of short- and medium-term export credit availability for small and medium sized exporters and what additional delivery mechanisms might expand the availability of such support.

PUBLIC PARTICIPATION: The meeting will be open to public participation, and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Megan Becher, Room 1284, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3507, no later than April 6, 1998. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to April 6, 1998, Megan Becher Room 1284, Vermont Avenue, NW, Washington, DC 20571, Voice: (202) 565–3955 or TDD (202) 565–3377.

FURTHER INFORMATION: For further information, contact Megan Becher, Room 1284, 811 Vermont Ave., NW, Washington, DC 20571, (202) 565–3507.

Kenneth Hansen,

General Counsel.

[FR Doc. 98–8225 Filed 3–27–98; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

March 23, 1998.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty

for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before April 29, 1998. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0686.

Title: Streamlining the International Section 214 Authorization Process and Tariff Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 1,650 respondents; 3,531 responses.

Estimated Time Per Response: 1–24 hours (avg).

Frequency of Response: On occasion, annual, quarterly, and semi-annual reporting requirements.

Cost to Respondents: $12,496,760.

Total Annual Burden: 74,089 hours.

Needs and Uses: The information required by 47 CFR Part 61, Part 63 and 47 CFR 1.767 is needed to determine if facilities operations or service initiation or discontinuance by existing or new carriers meets the public interest, convenience and necessity standard of the Communications Act, as amended.

OMB Control No.: 3060–0210.

Form No.: N/A.

Title: Section 73.1930, Political Editorials.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit.

Number of Respondents: 2,758.

Estimated Time Per Response: 3 hours.

Frequency of Response: Third party disclosure.

Cost to Respondents: $0.

Total Annual Burden: 8,274 hours.

Needs and Uses: Section 73.1930 requires that when a commercial licensee, in an editorial, endorses or opposes a candidate, the licensee must notify the other qualified candidate(s) for the same office or the candidate opposed, of the date and time of editorial, provide a script or tape of editorial, and offer reasonable opportunity to respond over the licensee's facility. The information is used to provide a qualified candidate reasonable opportunity to respond to a political editorial.

OMB Control No.: 3060–0179.

Title: Section 73.1590, Equipment Performance Measurements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 13,151 respondents.

Estimated Time Per Response: .5 hours.

Frequency of Response: Recordkeeping requirement.

Cost to Respondents: $0.

Total Annual Burden: 12,036 hours.

Needs and Uses: Section 73.1590 requires licensees of AM, FM and TV stations to make audio and video equipment performance measurements for each main transmitter. These measurements and a description of the equipment and procedure used in making the measurements must be kept on file at the transmitter for two years. In addition, this information must be made available to the FCC upon request.

The data is used by FCC staff in field investigations to identify sources of interference.

OMB Control No.: 3060–0630.

Title: Section 73.62, Directional Antenna System Tolerances.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 750.

Estimated Time Per Response: 4.5 hours.

Frequency of Response: Recordkeeping requirement.

Cost to Respondents: $0.

Total Annual Burden: 3,375 hours.

Needs and Uses: Section 73.62(b) requires an AM station with a directional antenna system to measure and log every monitoring point at least once for each mode of directional operation within 24 hours of detection of variance of operating parameters from allowed tolerances. Section 73.62(b) also requires a station operating at variance to file a request for special temporary authority to continue operations with parameters at variance and/or with reduced power along with a statement certifying that all monitoring points will be continuously maintained within their specified limits. This requirement is included in the burden hours reported for a request for special temporary authority under Section 73.1635 (OMB Control No. 3060–0386).

The data is used by station engineers to correct the operating parameters of the directional antenna. The data is also used by FCC staff in field investigations to ensure that stations are in compliance with the technical requirements of the Commission's rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–8152 Filed 3–27–98; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL HOUSING FINANCE BOARD

Sunshine Act Notice

FEDERAL REGISTER CITATION OF PREVIOUS NOTICE: 63 FR 13409, March 19, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 A.M., Wednesday, March 25, 1998.

CHANGES IN THE MEETING: The following topics were withdrawn from the open portion of the meeting:

- Office of Finance—Board Compensation Policy Approval
- Office of Finance—Board Appointments

CONTACT PERSON FOR MORE INFORMATION: Elaine L. Baker, Secretary to the Board, (202) 408–2837.

William W. Ginsberg,

Managing Director.

[FR Doc. 98–8412 Filed 3–26–98; 12:50 pm]

BILLING CODE 6725–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., Thursday, April 2, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW., Washington, DC 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any 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: March 26, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–8354 Filed 3–26–98; 10:11 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 962–3063]

Altmeyer Home Stores, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

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

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: C. Steven Baker of John C. Hallerud, Chicago Regional Office, 55 East Monroe Street, Suite 1860, Chicago, Illinois 60603. (312) 960–5634.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home Page (for March 24, 1998), on the World Wide Web, at "http://www.ftc.gov/os/actions97.htm." A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement, subject to final approval, to a proposed consent order from respondent Altmeyer Home Stores, Inc. ("Altmeyer").

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement and take other appropriate action or make final the agreement's proposed order.

This matter concerns notification requirements under the Fair Credit Reporting Act, 15 U.S.C. § 1681. That statute required at the time of the alleged violations, among other things, that employment applicants who are denied employment, either in whole or in part, because of information in consumer reports obtained from consumer reporting agencies, be provided with the name and address of the agency making the consumer report. The failure to provide the notice required by the statute lessens consumers' access to information that may have led to the denial of employment. Proper notice assists consumers in discovering inaccurate or obsolete information in consumer reports that the consumers can subsequently dispute and correct. The use of consumer reports to assist in evaluating employment applications has become increasingly popular in recent years and, consequently, the significance of this notification requirement has heightened.

The Commission's complaint alleges that Altmeyer has denied employment applications based, in whole or in part, on information contained in consumer reports, failed to advise such job applicants that the denial was based in whole or in part on information contained in a consumer report, and failed to supply such applicants with the name and address of the agency making the report, as required by Section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681m(a), prior to the amendments effective September 30, 1997. The complaint also alleges that the failure to advise these job applicants constitutes a violation of Section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681m(a). The complaint further alleges that, pursuant to Section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681s, a violation of Section 615(a) constitutes an unfair or deceptive act or practice in violation of Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1).

The proposed consent order contains provisions designed to remedy the violations charged and to prevent the respondents from engaging in similar acts and practices in the future.

Part I of the consent agreement prohibits violations of the Fair Credit Reporting Act as it existed during the time of the investigation (*i.e.*, October 1, 1995), and prospectively requires compliance with Section 615, pursuant to amendments to the Fair Credit Reporting Act effective September 30, 1997, and as the Fair Credit Reporting Act may be amended in the future. Pursuant to Section 615(c) of the Fair Credit Reporting Act, Part I provides that Altmeyer will not be held liable for violations of Section 615 if it shows by a preponderance of the evidence that it maintained reasonable procedures for complying with Section 615.

Part II is a five year record keeping provision. Part III requires that Altmeyer distribute copies of the order for five years. Part IV requires notice to the Commission of changes in corporate structure for the duration of the consent agreement. Part V provides for compliance reports. Finally, Part VI

terminates the consent agreement after twenty years.

The Fair Credit Reporting Act was extensively amended effective September 30, 1997 and now contains significant additional requirements for employers using consumer reports.

The purpose of this analysis is to facilitate public comment on the proposed consent order. It is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 98–8206 Filed 3–27–98; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Program Support Center

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Program Support Center (PSC), 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 information collection was recently submitted to OMB:

1. Application Packets for Real Property for Public Health Purposes—0937–0191—Reinstatement.

The Department of Health and Human Services administers a program to convey or lease surplus real property to States and their political subdivisions and instrumentalities, to tax-supported institutions, and to nonprofit institutions to be used for health purposes. State and local governments and nonprofit organizations use these applications to apply for excess/surplus, underutilized/unutilized and off-site Government real property. Information in the application is used to determine eligibility to purchase, lease, or use property under the provisions of the surplus property program. The instructions have been reduced from six (6) packets to three (3) to streamline and consolidate the health and homeless application processes. The Environmental information form, used to evaluate potential environmental effects of a proposal as required by the National Environmental Policy Act of 1969, is being revised to provide factual data to support the response to each question and to leave no doubt about what conditions or adverse effects are being considered as well as to make it more user friendly. *Respondents:* State, Local or Tribal Governments; not-for-profit institutions; *Total Number of Respondents:* 55 per calendar year; *Number of Responses per Respondent:* one response per request; *Average Burden per Response:* 200 hours; *Estimated Annual Burden:* 11,000 hours.

OMB Desk officer: Allison Eydt.

Copies of the information collection package listed above can be obtained by calling the PSC Reports Clearance Officer on (301) 443–2045. 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 NW, Washington, DC 20503.

Comments may also be sent to Douglas F. Mortl, PSC Reports Clearance Officer, Room 17A–08, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received on or before April 29, 1998.

Dated: March 23, 1998.

Lynnda M. Regan,

Director, Program Support Center.

[FR Doc. 98–8195 Filed 3–27–98; 8:45 am]

BILLING CODE 4168–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Meeting

The National Center for Environmental Health (NCEH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting:

Name: Current Status of the Vessel Sanitation Program (VSP) and Experience to Date with Program Operations—Public meeting between CDC and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9 a.m.–1 p.m., April 28, 1998.

Place: DoubleTree Grand Hotel, Biscayne Bay Miami, 1717 North Bayshore Drive, Miami, Florida 33132, telephone 305/372–0313, fax 305/539–9228.

Status: Open to the public, limited by the space available. The meeting room accommodates approximately 100 people.

Purpose: During the past 12 years, as part of the revised VSP, CDC has conducted a series of public meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties.

This meeting is a continuation of that series of public meetings to discuss current status of the VSP and experience to date with program operations.

Matters to be Discussed: Agenda items will include a VSP Program Director Update; 1997 Program Review; Canadian/U.S. Harmonization Update; Revision of the "Final Recommended Shipbuilding Construction Guidelines for Cruise Vessels Destined to Call on U.S. Ports"; Update on Disease Surveillance and Outbreak Investigations; Revision of the VSP Operations Manual; Consultation Fees; and VSP Training Seminars.

For a period of 15 days following the meeting, through May 19, 1998, the official record of the meeting will remain open so that additional materials or comments may be submitted to be made part of the record of the meeting.

Advanced registration is encouraged. Please provide the following information: name, title, company name, mailing address, telephone number, facsimile number and E-mail address to Sharon Dickerson, Program Analyst, facsimile 770/488–4127 or E-mail: shd2@cdc.gov.

Contact Person for More Information: Daniel Harper, Chief, VSP, Special Programs Group, NCEH, CDC, 4770 Buford Highway, NE, M/S F–16, Atlanta, Georgia 30341–3724, telephone 770/488–3524, E-mail: dmh2@cdc.gov, or David Forney, Public Health Advisor, Division of Environmental Hazards and Health Effects, telephone 770/488–7333 or E-mail: dlf1@cdc.gov.

Dated: March 23, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–8182 Filed 3–27–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93631–98–01]

Developmental Disabilities: Request for Public Comments on Proposed Developmental Disabilities Funding Priorities for Projects of National Significance for Fiscal Year 1998

AGENCY: Administration on Developmental Disabilities (ADD), ACF, DHHS.

ACTION: Notice of request for public comments on developmental disabilities tentative funding priority for Projects of National Significance for Fiscal Year 1998.

SUMMARY: The Administration on Developmental Disabilities (ADD) announced that public comments are

being requested on tentative funding priorities for Fiscal Year 1998 Projects of National Significance prior to being announced in its final form.

We welcome comments and suggestions on this proposed announcement and funding priority which will assist in bringing about the increased independence, productivity, integration, and inclusion into the community of individuals with developmental disabilities.

DATES: The closing date for submission of comments is May 26, 1998.

ADDRESSES: Comments should be sent to: Reginald F. Wells, Ph.D., Acting Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

FOR FURTHER INFORMATION CONTACT: Administration for Children and Families (ACF), Pat Laird, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, 202/690–7447.

SUPPLEMENTARY INFORMATION: This announcement consists of two parts:

Part I

Background

A. Goals of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is located within the Administration for Children and Families, Department of Health and Human Services (DHHS). Although different from the other ACF program administrations in the specific constituency it serves, ADD shares a common set of goals that promote the economic and social well-being of families, children, individuals and communities. Through national leadership, we see:

- Families and individuals empowered to increase their own economic independence and productivity;
- Strong, healthy, supportive communities having a positive impact on the quality of life and the development of children;
- Partnerships with individuals, front-line service providers, communities, States and Congress that enable solutions which transcend traditional agency boundaries;
- Services planned and integrated to improve client access; and
- A strong commitment to working with Native Americans, individuals with developmental disabilities, refugees and migrants to address their needs, strengths and abilities.

Emphasis on these goals and progress toward them will help more individuals, including those with developmental disabilities, to live productive and independent lives integrated into their communities. The Projects of National Significance Program is one means through which ADD promotes the achievement of these goals.

Two issues are of particular concern with these projects. First, there is a pressing need for networking and cooperation among specialized and categorical programs, particularly at the service delivery level, to ensure continuation of coordinated services to people with developmental disabilities. Second, project findings and successful innovative models of projects need to be made available nationally to policy makers as well as to direct service providers.

B. Purpose of the Administration on Developmental Disabilities

The Administration on Developmental Disabilities is the lead agency within ACF and DHHS responsible for planning and administering programs which promote the self-sufficiency and protect the rights of individuals with developmental disabilities.

The 1996 Amendments (Pub. L. 104–183) to the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 *et seq.*) (the Act) supports and provides assistance to States and public and private nonprofit agencies and organizations to assure that individuals with developmental disabilities and their families participate in the design of and have access to culturally competent services, supports, and other assistance and opportunities that promote independence, productivity and integration and inclusion into the community.

The Act points out that:

- Disability is a natural part of the human experience that does not diminish the right of individuals with developmental disabilities to enjoy the opportunity for independence, productivity and inclusion into the community;
- Individuals whose disabilities occur during their developmental period frequently have severe disabilities that are likely to continue indefinitely;
- Individuals with developmental disabilities often require lifelong specialized services and assistance, provided in a coordinated and culturally competent manner by many agencies, professionals, advocates, community representatives, and others to eliminate barriers and to meet the needs of such individuals and their families;

The Act further finds that:

- Individuals with developmental disabilities, including those with the most severe developmental disabilities, are capable of achieving independence, productivity, and integration and inclusion into the community, and often require the provision of services, supports and other assistance to achieve such;
- Individuals with developmental disabilities have competencies, capabilities and personal goals that should be recognized, supported, and encouraged, and any assistance to such individuals should be provided in an individualized manner, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual;
- Individuals with developmental disabilities and their families are the primary decision makers regarding the services and supports such individuals and their families receive; and play decision making roles in policies and programs that affect the lives of such individuals and their families; and
- It is in the nation's interest for individuals with developmental disabilities to be employed, and to live conventional and independent lives as a part of families and communities.

Toward these ends, ADD seeks to enhance the capabilities of families in assisting individuals with developmental disabilities to achieve their maximum potential, to support the increasing ability of individuals with developmental disabilities to exercise greater choice and self-determination, to engage in leadership activities in their communities, as well as to ensure the protection of their legal and human rights.

Programs funded under the Act are:

- Federal assistance to State developmental disabilities councils;
- State system for the protection and advocacy of individual rights;
- Grants to university affiliated programs for interdisciplinary training, exemplary services, technical assistance, and information dissemination; and
- Grants for Projects of National Significance.

C. Description of Projects of National Significance

Under Part E of the Act, demonstration grants and contracts are awarded for projects of national significance that support the development of national and State

policy to enhance the independence, productivity, and integration and inclusion of individuals with developmental disabilities through:

- Data collection and analysis;
- Technical assistance to enhance the quality of State developmental disabilities councils, protection and advocacy systems, and university affiliated programs; and
- Other projects of sufficient size and scope that hold promise to expand or improve opportunities for individuals with developmental disabilities, including:

—technical assistance for the development of information and referral systems;
—educating policy makers;
—Federal interagency initiatives;
—the enhancement of participation of racial and ethnic minorities in public and private sector initiatives in developmental disabilities;
—transition of youth with developmental disabilities from school to adult life; and

Section 162(d) of the Act requires that ADD publish in the **Federal Register** proposed priorities for grants and contracts to carry out Projects of National Significance. The Act also requires a period of 60 days for public comment concerning such proposed priorities. After analyzing and considering such comments, ADD must publish in the **Federal Register** final priorities for such grants and contracts, and solicit applications for funding based on the final priorities selected.

The following section presents the proposed priority areas for Fiscal Year 1998 Projects of National Significance. We welcome comments and suggestions. We would also like to receive suggestions on topics which are timely and relate to needs in the developmental disabilities field.

Please be aware that the development of the final funding priority is based on the public comment response to this notice, current agency and Departmental priorities, needs in the field of developmental disabilities and the developmental disabilities network, etc., as well as the availability of funds for this fiscal year.

Part II

Fiscal Year 1998 Proposed Priority Areas for Projects of National Significance

ADD is interested in all comments and recommendations which address areas of existing or evolving national significance related to the field of developmental disabilities.

ADD also solicits recommendations for project activities which will advocate for public policy change and community acceptance of all individuals with developmental disabilities and families so that such individuals receive the culturally competent services, supports, and other assistance and opportunities necessary to enable them to achieve their maximum potential through increased independence, productivity, and integration into the community.

ADD is also interested in activities which promote the inclusion of all individuals with developmental disabilities, including individuals with the most severe disabilities, in community life; which promote the interdependent activity of all individuals with developmental disabilities and individuals who are not disabled; and which recognize the contributions of these individuals (whether they have a disability or not), as such individuals share their talents at home, school, and work, and in recreation and leisure time.

No proposals, concept papers or other forms of applications should be submitted at this time. Any such submission will be discarded.

ADD will not respond to individual comment letters. However, all comments will be considered in preparing the final funding solicitation announcement and will be acknowledged and addressed in that announcement.

Please be reminded that, because of possible funding limitations, the proposed priority areas listed below may not be published in a final funding solicitation for this fiscal year.

Comments should be addressed to: Reginald F. Wells, Ph.D, Acting Commissioner, Administration on Developmental Disabilities, Administration for Children and Families, Department of Health and Human Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447.

Proposed Fiscal Year 1998 Priority Area 1: Unequal Protection Under the Law, Invisible Victims of Crime—Individuals with Developmental Disabilities

With the passage of the *Americans with Disabilities Act* (ADA) many people in the disability community thought it would bring equality under the law: a final fulfillment of their constitutional rights. However, individuals with a developmental disability who are victims of a crime often find the criminal justice system to be less than fair; and to make matters worse the community services meant to assist victims of crime are ill-prepared to meet their needs.

Persons with developmental disabilities have a significantly higher risk of becoming crime victims than non-disabled persons. Differences in victimization rates are most pronounced for the crimes of sexual assault and robbery. There is also a high probability of repeat victimization, because over time those who victimize individuals with disabilities come to regard them as easy prey—where crimes can be committed against them with little chance of detection or punishment.

A recent analysis combining these victimization probabilities with data from the U.S. National Crime Victimization Survey estimates that roughly 5 million serious crimes are committed against persons with developmental disabilities in the U.S. each year.

Research shows that offenders seek victims with disabilities specifically because they are considered to be vulnerable and unable to seek help or report the crime. More than half of the crimes committed against victims with developmental disabilities are never reported to justice authorities, and when they are reported, they are often handled administratively rather than through criminal prosecution. Administrative actions such as licensing sanctions against a group home or the firing of the suspect are common. Such administrative sanctions represent a separate and unequal "justice" system.

When crimes are reported, there are lower rates of police follow-up, prosecution and convictions. When convictions occur, studies show that sentences for crimes committed against individuals with disabilities are lighter, particularly for sexual assault. Possible explanations offered for this are the difficulty of investigating these cases, lack of special police training, no provision of reasonable accommodations, and the negative stereotype held toward people with developmental disabilities.

The Americans with Disabilities Act is a significant tool that can address these extreme disparities in the treatment of people with developmental disabilities in the criminal justice system. Congress clearly intended the ADA to remove barriers to effective participation in all aspects of American society including the justice system. Title II, Part A of the ADA states that "no otherwise qualified individual with a disability shall, by reason of such a disability, be excluded from participation in or denied the benefits of the services, programs or activities of a public entity, or subjected to discrimination by any such entity." "Public entity" encompasses all police,

probation and law enforcement agencies, correctional facilities, and state and local court systems. Agents of the criminal justice system have a responsibility and obligation to ensure that they do not treat persons with disabilities in a discriminatory manner. However, many of these agents or "public entities" are unsure of the application of ADA to them and/or how to make accommodations for people with physical and mental disabilities. Law enforcement agencies and other entities in the criminal justice system are not alone in their ignorance of their responsibilities under ADA. Many of the victim assistance services programs do not realize their obligations under ADA, thus placing persons with developmental disabilities at a greater risk of harm.

Clearly, more extensive collaboration between the disability community and the criminal justice system is needed to facilitate equal justice for all citizens. ADD would be interested in collaborative projects involving training and education. These two components are critical to the elimination of physical and attitudinal barriers experienced by people with developmental disabilities when they encounter the criminal justice system as victims of crime. Existing curricula need to be tested and further developed; inclusionary methods must be shared. New networks need to be created at the local, state, and national levels allowing for the dissemination of information.

The enormity of this issue will go unknown until there is national data collected on the victimization of people with developmental disabilities. The National Victims Survey collects no data on this population. Research must be conducted identifying the barriers to services. Key to this research would be explanations for why this injustice has continued; what constitutes violence/abuse/neglect in the context of disability; and are the situations for people with disabilities different from the situations in the general population.

ADD would consider projects addressing these areas of concern with the outcome of a criminal justice system that treats its citizens with developmental and other disabilities with equality.

Proposed Fiscal Year 1998 Priority Area 2: Domestic Violence and Women with Developmental Disabilities—The Hidden Violence

In a special report, "Violence Against Women: Estimates from the Redesigned Survey", which presented 1995 data from the National Crime Victimization Survey, it was reported that women were attacked about six times more often by offenders with whom they had an intimate relationship than were male violence victims during 1992 and 1993. During each year women were the victims of more than 4.5 million violent crimes, including approximately 500,000 rapes or other sexual assaults. Women from 19–29 years of age were more likely than women of other ages to be victimized by an intimate party. Women of all races were about equally vulnerable to attacks. However, women in families with incomes below $10,000 per year were more likely than other women to be violently attacked.

Persons with developmental disabilities have a 4 to 10 times higher risk of becoming crime victims than non-disabled persons. Differences in victimization rates are pronounced for the crime of sexual assault.

The rates of sexual assault on this population is very alarming. One study found that 83% of women and 32% of men with developmental disabilities in their sample had been sexually assaulted. Other studies have found from 86%–91% of women in their samples had been sexually assaulted. Another study found that of those who were sexually assaulted, 50% had been assaulted 10 or more times.

One of the few studies conducted specifically on the prevalence of abuse among women with disabilities, found little difference in the occurrence of abuse in comparison with non-disabled women. However, it found that women with disabilities may be at greater risk of abuse from health care providers or caregivers. Another difference identified was that the duration of the abuse experienced was longer than for women without disabilities. The reason suggested for this duration finding was that interventions available to non-disabled women may not be available or accessible to women with physical disabilities. Other reasons included a feeling of powerlessness to escape, lack of opportunity to report the abuse, or dependency on their caregiver. Another recent study confirmed these barriers to services plus additional ones and offered recommendations for their elimination.

For the first time in our nation's history we are finally dealing with the issue of domestic violence at a national level. The *1994 Crime Act* contains the landmark Violence Against Women Act. Implementation of its provisions are under the control of the Violence Against Women Office at the U.S. Department of Justice. Not only does this office provide funding for various programs under the Act but it houses the Advisory Council on Violence Against Women and operates the Domestic Violence Hotline (1–800–799–SAFE, TDD 1–800–787–3224).

Although women with disabilities are at higher risk for all types of violence, there are no dedicated resources being devoted on a Federal level to decrease or eliminate the violence experienced by these women. The U.S. Department of Justice has just begun to consider people with disabilities in general as targets of violence in regard to hate crimes and victim's assistance.

Projects are needed that would partner programs within the criminal justice system with domestic violence service programs to develop strategies and training for assisting women with developmental and other significant disabilities. Public awareness programs must be developed sensitizing communities about the violence experienced by these women. Data collection programs should include data specifically on the prevalence of violence against women with disabilities and the types of services and supports they require to overcome their victimization. The active involvement of women with disabilities in policy making and service provision at the local, state and Federal levels must be a significant effort of such projects. The results of these types of activities should be the full inclusion of women with disabilities in funding streams and criminal justice strategies as administered by local, state and Federal governments.

Proposed Fiscal Year 1998 Priority Area 3: Healthy Lifestyles and Recreation—Factors Contributing Towards A Quality of Life for Persons With Developmental Disabilities

As more and more people with disabilities in general are having increased life spans due to advancements in medical technologies and innovative scientific research attention must be given toward healthy lifestyles and methods to reduce the effects of aging with a disability. Americans with disabilities strive for equal access to opportunities and programs and services that enable them to experience a quality lifestyle comparable to other Americans and to maintain their independence and function. As some individuals with certain disabilities have experienced physical weaknesses, loss of function, and pain, it has raised questions about what constitutes optimal levels of physical activity or exercise, dietary requirements, and therapies that are helpful in sustaining their standard of life.

A recent ADD report, "Aging and Cerebral Palsy: The Critical Needs", based on a roundtable meeting, articles, research papers, and other publications summarized the major issues of concern of people with cerebral palsy. Some of the issues expressed were related to (1) exercise—inability to determine what type of exercise(s) is best suited to maintain cardio-pulmonary conditioning, physical strength, bone density, coordination, joint mobility and weight control; (2) women's issues—inability to find accurate information and competent medical care (including counseling) when they were younger such as reproductive health care and as they are aging on menopause; (3) quality of medical care—few medical professionals, especially dentists, are familiar with cerebral palsy making it difficult to obtain treatment; (4) emotional and psychological issues—the aging process begins early as overstressed muscles and joints wear out relatively quickly, and people in their 30s and 40s are often ill-equipped to deal with problems that their peers will often not encounter for two more decades; and (5) managed care—these organizations have a mixed history of providing appropriate and timely services to individuals with disabilities, have many financial incentives that may not be congruent with the needs of individuals with disabilities or the philosophy of the disability rights movement, and long-term supports and services may be at particular risk in a managed care environment. Some of these issues are transferable to other types of disabilities. For instance, in one study on breast and cervical cancer screening it was reported that women with disabilities tend to be less likely than women without disabilities to receive pelvic exams on a regular basis, and women with more severe functional limitations are significantly less likely to do so. Women with physical disabilities are at a higher risk for delayed diagnosis of breast and cervical cancer, primarily for reasons of environmental, attitudinal, and information barriers. There are few studies on women with mental retardation or other cognitive disabilities.

At this time there is little research that can provide answers to these questions. Yet the concerns cannot be ignored. There are an estimated 54 million people with a disability within the United States, almost half of whom are considered to have a severe disability. An estimated 4% age 5 and over need personal assistance with one or more activities; over 5.8 million people need assistance in instrumental activities of daily living (IADL), while 3.4 million need assistance in "activities of daily living" (ADL). As one ages, activity limitations increase along with the need for assistance. Reviewing this data from a purely economic standpoint it makes sense to dedicate some resources to the prevention or alleviation of regressive symptoms that prevent individuals with developmental and other disabilities from functioning at their maximum level.

ADD would support projects that facilitate working partnerships between people representing the issue of consumers, research foundations, physical education/recreation fields, sports/athletic associations, health care organizations, and others such as aging to develop and test guidelines for exercise regimens, examine alternative forms of medicine, foster training programs for health professionals, coordinate and disseminate consumer education materials, promote model programs plus other activities that would lead to factors or indicators of a quality life.

Serious consideration should be given to how the promotion of "wellness" or "staying healthy" for people with developmental and other significant disabilities supports choice of lifestyle that coincides with the philosophy of self-determination. Specialized sports equipment has been designed for use by serious athletes with disabilities, but little information and equipment exists for those people with disabilities who are non-athletes and want to exercise or play. And how can this information be incorporated into generic fitness centers.

Proposed Fiscal Year 1998 Priority Area 4: Promoting Future Partnerships By Minority Institutions and Consumer Organizations With ADD Through Participation in the Projects of National Significance

"People with disabilities have always been excluded from the bounty of our nation's resources. Minorities with disabilities, in particular, have been the most disenfranchised of the disenfranchised. It is time we bring them into the fold as full, first-class participants in our society." (Hon. Rev. Jesse L. Jackson, National Rainbow Coalition).

A 1993 report from the National Council on Disability (NCD), "Meeting the Unique Needs of Minorities with Disabilities", reinforces this statement. After convening a national conference and a public hearing, NCD found that "Persons with disabilities who are also members of minorities face double discrimination and a double disadvantage in our society. They are more likely to be poor and undereducated and to have fewer opportunities than other members of the population."

The 1990 Census confirmed America's rapidly changing racial profile. According to the census data there are 30 million African Americans (an increase of 13.2% since 1980); 22.4 million Hispanic Americans (an increase of 53%); 7.3 million Asian Americans (an increase of 107.8%); and 2.0 million Native Americans (an increase of 37.9%). In comparison, the European American population grew only 6.0% since 1980. By the year 2000, the nation will have 260 million people, one of every three of whom will be either African-American, Latino, or Asian-American.

As a result of factors such as poverty, unemployment, and poor health status, persons of minority backgrounds are at high risk of disability. Based largely on population projections and substantial anecdotal evidence, it is clear that the number of persons from these minority populations who have disabilities is increasing. Moreover, based on similar projections, the proportion of minority populations with disabling conditions will probably increase at even faster rates than that of the general population.

ADD is determined to build the knowledge and capacity of the organizations and institutions having majority representation of people from diverse ethnic/cultural backgrounds and/or disabilities. In the future, ADD should receive applications that reflect the experiences and perceptions and needs of those diverse populations. To achieve this goal ADD would consider projects that provide training and technical assistance on the grants development process, including developing the financial and managerial capacity to administer a grant; identify and facilitate a network of such organizations or institutions; prepare and disseminate necessary materials; and utilize existing resources. ADD also would support projects that form coalitions of consumer and minority organizations to jointly address this effort.

Proposed Fiscal Year 1998 Priority Area 5: Girl Power! Moving From Despair to Empowerment of Girls with Developmental Disabilities

Unwanted and unplanned teenage pregnancies present a myriad of problems to society, to young parents, and their children. For young mothers who live below the poverty level, as most teenage mothers do, economic

problems are exacerbated by unplanned births. For teenage girls with disabilities, unplanned births compound problems of disability, poverty, and isolation.

Unplanned and unwanted pregnancies continue to be one of the most prevalent problems of our society, involving social, economic, health, and education issues. When unmarried teenagers become parents, they are unlikely to graduate from high school, their career options are usually decreased, and they often require more community services.

Both teenage mothers and their babies are likely to have greater health problems than non-teenage mothers and their children. Babies born to teenagers are often low birth weight. Low birth weight babies can increase the likelihood of certain disabilities. Teenage girls who have unplanned pregnancies often do not have strong academic backgrounds, sophisticated coping skills, or confidence to believe that they can influence their futures.

The U.S. Department of Health and Human Services/Office of the Assistant Secretary for Planning and Evaluation reports that there are approximately 200,000 births a year to girls age 17 and younger. According to the "National Campaign to Prevent Teen-age Pregnancy", approximately four out of ten girls in the United States becomes pregnant at least once before the age of 20. Teenage pregnancy is not a new problem nor considered a problem in some cultures.

However, today in the U.S. most careers depend on knowledge of technology as well as basic skills, and most young women discontinue their educations when they have unplanned or unwanted pregnancies.

Teachers, parents, and community leaders are aware of the importance of a wide range of developmental experiences for young people. However, young women and young people with disabilities continue to experience isolation, fewer opportunities, and lower expectations from their families and communities. Young women with disabilities are especially likely to be denied, in subtle but significant ways, the experiences that provide them with the tools for self-determination. This very point is raised in the "Report from the National Longitudinal Transition Study of Special Education Students. It was found that female 12th-graders with disabilities were much less likely than males to have competitive employment as their postschool goal, a pattern that reflects in their postschool reality. Despite higher academic performance while in school, young women with disabilities were just as likely as young men to drop out of school, and almost 25% did so because of pregnancy or childrearing responsibilities. Within 3 to 5 years after high school, 30% of young women with disabilities were married and 41% were mothers, a rate that was significantly higher than the reported parenting rate for young men with disabilities (16%) or for young women of the same age in the general population (26%). This raises significant questions about the frequency with which these young women were mothers in their early years after leaving school and why other options such as further schooling or employment were not pursued. School programs chosen by or provided to many young women with disabilities support a postschool path involving home and child care more likely than postsecondary education or employment.

Some studies have shown that people with disabilities and particularly women with disabilities are more likely to be targets of crime and/or abuse. In addition, women with low self-esteem are more vulnerable to relationships that lead to unplanned and unwanted pregnancies.

The Administration on Developmental Disabilities is proposing demonstration projects to address the multiplicity of issues involved with pregnancies among teenagers with developmental and other disabilities. These projects should be collaborative efforts by disability groups, and family planning organizations, and any other public and private community agencies that are addressing this issue. Mentoring models using women with disabilities need to be developed.

(Federal Catalog of Domestic Assistance Number 93.631—Developmental Disabilities—Projects of National Significance)

Dated: March 17, 1998.

Reginald F. Wells,

Acting Commissioner, Administration on Developmental Disabilities.

[FR Doc. 98–8196 Filed 3–27–98; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review Comment Request; Leukemia and Other Cancers Among Chernobyl Clean-up Workers in Lithuania

SUMMARY: Under the provisions of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH), has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on October 8, 1997, page 52568, and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION:

Title: Leukemia and Other Cancers Among Chernobyl Clean-up Workers in Lithuania. *Type of Information Collection Request:* Reinstatement, with change—OMB No. 0925–0401. *Need and Use of Information Collection:* A cohort study will be conducted to investigate the risk of radiation-induced leukemia and other cancers, and of occupationally related cancers, among 7,000 workers from Lithuania who were sent to Chernobyl to clean-up after the accident there in 1986. The workers will be asked to respond to a mail questionnaire or an interview that collects information about specific duties performed during the Chernobyl clean-up, occupational exposures, other cancer risk factors, and incident cancers. The information will be combined with similar information from Estonia and Latvia and used by the National Cancer Institute to determine site-specific risk estimates for cancer based on various exposure patterns. *Frequency of Response:* One time; *Affected Public:* Individuals or households; *Type of Respondent:* Chernobyl Workers. The annual reporting burden is as follows: *Estimated Number of Respondents:* 1,867; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 1; and *Estimated Total Annual Burden Hours Requested:* 1,867. There are no Capital Costs, Operating and/or Maintenance Costs to report.

REQUEST FOR COMMENTS: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the

information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DIRECT COMMENTS TO OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503. Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the plans and instruments, contact Dr. Gilbert W. BeeBe, Ph.D., National Cancer Institute, EPN 400, 6130 Executive Boulevard, Rockville, MD 20892–7364, or call the non-toll-free number (301) 496–5067.

COMMENTS DUE DATE: Comments regarding this information collection are best assured of having their full effect if received on or before April 29, 1998.

Dated: March 23, 1998.

Reesa L. Nichols,

OMB Project Clearance Liaison.

[FR Doc. 98–8240 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMANS SERVICES

National Institutes of Health

National Cancer Institute; Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Frederick Cancer Research and Development Center Advisory Committee, April 1, 1998, Frederick Cancer Research and Development Center, Building 549, Executive Board Room, Frederick, Maryland, which was published in the **Federal Register** on March 4, 1998 (63 FR 10643).

The meeting was canceled due to a scheduling conflict.

Dated: March 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8241 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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: Subclinical Cardiovascular Disease-Electron Beam Computed Tomography (EBCT) Reading Center.
Date: April 6, 1998.
Time: 8:00 a.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Ph.D., Two Rockledge Center, room 7198, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0297.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Subclinical Cardiovascular Disease-Coordinating Center.
Date: April 6, 1998.
Time: 10:45 a.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Ph.D., Two Rockledge Center, room 7198, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0297.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Subclinical Cardiovascular Disease-Ultrasonography Reading Center.
Date: April 6, 1998.
Time: 2:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Ph.D., Two Rockledge Center, room 7198, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0297.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Subclinical Cardiovascular Disease-Magnetic Resonance Imaging.
Date: April 6, 1998.
Time: 3:45 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Ph.D., Two Rockledge Center, room 7198, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0297.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Subclinical Cardiovascular Disease-Special Laboratory Center.
Date: April 6, 1998.
Time: 6:00 p.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Ph.D., Two Rockledge Center, Room 7198, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0297.
Purpose/Agenda: To review and evaluate contract proposals.

Name of SEP: Subclinical Cardiovascular Disease-Field Center.
Date: April 7, 1998.
Time: 8:00 a.m.
Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.
Contact Person: Valerie L. Prenger, Ph.D., Two Rockledge Center, Room 7198, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0297.
Purpose/Agenda: To review and evaluate contract proposals.

These notices are being published less than fifteen days prior to these meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

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: March 23, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8234 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting of the National Heart, Lung, and Blood Advisory Council

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, May 14–15, 1998, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland.

The Council meeting will be open to the public on May 14 form 8:30 a.m. to approximately 3:00 p.m. for discussion of program polices and issues. 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., sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public from approximately 3:00 p.m. on May 14 to adjournment on May 15, for the review, discussion, and evaluation of individual grant applications. 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 person 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. Ronald G. Geller, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Rockledge Building (RKL2), Room 7100, National Institutes of Health, Bethesda, Maryland 20892, (301) 435–0260, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program 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: March 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8239 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel.

Date: April 17, 1998.

Time: 8:00 a.m.

Place: Georgetown Holiday Inn, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Dr. Paul Sheehy, Scientific Review Administrator, NINDS, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, MD 20892, (301) 496-9223.

Purpose/Agenda: To review and evaluate 3 grant applications.

The 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 personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: March 23, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8235 Filed 3–27–98; 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 Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda/Purpose: To review and evaluate grant applications.

Committee name: National Institute of Mental Health Special Emphasis Panel.

Date: April 3, 1998.

Time: 11 a.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact person: Sheri L. Schwartzback, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 446–6470.

Committee name: National Institute of Mental Health Special Emphasis Panel.

Date: April 8, 1998.

Time: 3 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact person: W. Gregory Zimmerman, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1340.

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.

This notice is being published less than fifteen days prior to the meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: March 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8237 Filed 3–27–98; 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; 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: ZDKI GRB B(MI).

Date: April 7–8, 1998.

Time: 6:00 p.m.

Place: The Bethesda Ramada, 8400 Wisconsin Avenue, Bethesda, Maryland 20814, (301) 654–1000.

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 sections 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 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: March 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8242 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings of the Board of Regents, the Extramural Programs Subcommittee and the Subcommittee on Outreach and Public Information

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on May 12–13, 1998, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland. The Extramural Programs Subcommittee will meet on May 11 in the 5th-Floor Conference Room, Building 38A, from 1 p.m. to 2:45 p.m., and will be closed to the public. The Subcommittee on Outreach and Public Information will meet on May 12 in Conference Room B, Building 38, from 8 a.m. to 9 a.m., and will be open to the public.

The meeting of the Board will be open to the public from 9 a.m. to approximately 2:30 p.m. on May 12 and from 9 a.m. to adjournment on May 13 for administrative reports and program discussions. 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 Mrs. Bonnie Kaps at 301–496–4621 two weeks before the meeting.

In accordance with provisions set forth in secs. 552b(c)(4), 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the entire meeting of the Extramural Programs Subcommittee on May 11 will be closed to the public from 1 p.m. to 2:45 p.m. and the regular Board meeting on May 12 will be closed from approximately 3:30 p.m. to 4 p.m. for the review, discussion, and evaluation of individual grant applications. These applications and the discussion 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.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 93–879—Medical Library Assistance, National Institutes of Health)

Dated: March 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8236 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMANS SERVICES

National Institutes of Health

Office of Research on Women's Health; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Advisory Committee on Research on Women's Health (ACRWH) to be held May 7–8, 1998 at the National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, Conference Room 10, Bethesda, Maryland. The entire meeting will be open to the public from 8:30 a.m. on May 7, to adjournment on May 8. The purpose of the meeting will be for the Committee to provide advice to the Office of Research on Women's Health (ORWH) on its research agenda and to provide recommendations regarding ORWH activities. Attendance by the public will be limited to space available.

The agenda will include an update on ORWH activities and programs to meet the mandates of the Office. The Committee will also discuss ongoing activities to update the NIH research agenda on women's health, including recommendations from its series of meetings, "Beyond Hunt Valley: Research on Women's Health for the 21st Century." The series of public hearings and scientific workshops were held in Philadelphia, Pennsylvania; New Orleans, Louisiana; Sante Fe, New Mexico; and the National Institutes of Health.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Acting Executive Secretary in advance of the meeting.

Joyce Rudick, Acting Executive Secretary, ACRWH, and Acting Deputy Director, ORWH, Office of the Director, NIH, Building 1, Room 201, Bethesda, Maryland 20892, (301) 402–1770, (301) 402–1798 (Fax), will furnish the meeting agenda, roster of Committee members, and substantive program information upon request.

Dated: March 24, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–8238 Filed 3–27–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of Approved Tribal/State Compact.

SUMMARY: Pursuant to Section II of the Indian Gaming Regulatory Act of 1988, Pub. L. 100–497, 25 U.S.C. 2710, the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal/State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Tribal-State Compact for Class III Gaming between the Nisqually Indian Tribe and the State of Washington, which was executed on May 25, 1995.

DATES: This action is effective March 30, 1998.

FOR FURTHER INFORMATION CONTACT: Nancy J. Pierskalla, Acting Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, D.C. 20240, (202) 219–4068.

Dated: March 20, 1998.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 98–8274 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–030–1990–00]

Notice of Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability of the proposed Federal coal planning decisions for the Carbon Basin Area, Carbon County, Wyoming and amendment of the Great Divide Resource Management Plan.

SUMMARY: The Carbon Basin planning review area is located approximately 40 miles east of the town of Rawlins and 12 miles southeast of the town of Hanna, all located in Carbon County,

Wyoming. The planning review was conducted because an application to lease Federal coal in the Carbon Basin area had been submitted and Federal coal planning decisions were not made for the area during development of the Great Divide Resource Management Plan (RMP). The proposed decision would open to further consideration for coal leasing and development 11,928.36 acres of Federal coal lands containing approximately 313 million tons of Federal coal in the Carbon Basin. Upon adoption of the proposed decisions, 11,808.36 acres of these Federal coal lands would be open to consideration for mining by surface and subsurface methods. The remaining 120 acres of Federal coal lands are adjacent to and include the Town of Carbon Cemetery. In order to preserve the historic setting of the cemetery, it was determined that this 120 acres located in SW¼NW¼, N½NW¼, Section 26, T. 22 N., R. 80 W., would be acceptable for coal mining using subsurface mining methods only and with a no-surface-occupancy requirement.

DATES: A 30-day protest period for the proposed planning decisions will begin the day following publication of this notice.

ADDRESSES: Protests should be addressed in writing to the Director (210), Bureau of Land Management, Attention: Brenda Williams, 1849 C Street NW, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Interested parties may direct questions and concerns to, or obtain further information from, Karla Swanson, Great Divide Resource Area Manager; Brenda Vosika Neuman, Project Leader; or John Spehar, Planning and Environmental Coordinator, at the Bureau of Land Management Office, 1300 N. Third Street, Rawlins, Wyoming 82301, or by telephone at 307–328–4200.

SUPPLEMENTARY INFORMATION: Ark Land Company, St. Louis, Missouri, filed an application with the Bureau of Land Management (BLM) to obtain a coal lease on approximately 4,145 acres of Federal coal lands located in the Carbon Basin area. Ark Land Company, through its affiliate, Arch of Wyoming, Inc., (Arch) has conducted coal mining operations in the Hanna Basin Region of Carbon County since 1972. The depletion of recoverable coal reserves in the Hanna Basin has led Arch to identify additional (local) coal resources in the Carbon Basin area that could utilize the existing infrastructure and meet existing contracts or long-term commitments. The Carbon Basin area is in close proximity to the Hanna Basin coal fields and provides a logical continuation of the Hanna Basin mining operations.

In 1982, a Federal coal lease was issued for approximately 60 percent of the Federal coal lands located in the Carbon Basin. Because this lease was still in effect at the time the current BLM land use plan (the Great Divide Resource Management Plan (RMP–1990)) covering the Carbon Basin area was prepared, it was exempt from the coal screening/planning requirements. Development of this lease was never pursued and the lease expired in 1992. Also, at the time the Great Divide RMP was prepared, there was no other interest expressed by industry in obtaining Federal coal leases in the area. As a result of these two factors, the coal screening/planning process was not conducted on the area and there were no coal planning decisions for any of the Federal coal lands in the Carbon Basin area included in the Great Divide RMP.

The Federal Coal Leasing Amendments Act of 1976 requires that Federal coal lands must first be identified in a comprehensive land use plan before they can be considered for leasing. Thus, any applications to lease coal in the Carbon Basin, could not be given consideration until a planning review was conducted on the Federal coal lands and a determination made that some or all of the lands are open to consideration for coal leasing and development. Because no coal planning decisions were made for the Carbon Basin coal area in the Great Divide RMP, a planning review was conducted on the area. The planning review involved conducting the coal screening/planning process (including application of the coal unsuitability criteria) and an environmental analysis documented in an environmental assessment (EA).

As provided in 43 Code of Federal Regulations, Part 1610.5–2, any person who participated in the planning review process and has an interest which is or may be adversely affected by the approval or amendment of a resource management plan may protest such approval or amendment. A protest may concern only those issues which were raised and submitted for the record during the planning review process and by only the party(ies) who raised the issue(s). All parts of the proposed decision may be protested. Protests must be in writing and must be postmarked within 30 days following the date the notice of availability (NOA) of this decision record is published in the **Federal Register**. Protests must include (a) the name, mailing address, telephone number, and interest of the person filing the protest; (b) a statement of the issue or issues submitted during the planning process by the protesting party; (c) a statement of the part, or parts, of the proposed decision being protested; (d) a copy of all documents addressing the issue or issues that were submitted during the planning review process by the protesting party or an indication of the date the issue or issues were discussed for the record; and (e) a concise statement explaining why the State Director's proposed decision is believed to be wrong.

If no protests are received the proposed decision will become final at the end of the 30-day protest period. If protests are received, the decision will not become final until the protests are resolved.

Dated: March 24, 1998.

Alan R. Pierson,

State Director.

[FR Doc. 98–8183 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–922–08–1310–00–241A–P; NDM 81533]

Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97–451, a petition for reinstatement of oil and gas lease NDM 81533, McKenzie County, North Dakota, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16⅔ percent respectively. Payment of a $500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as contained in Sec. 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: March 16, 1998.

Karen L. Johnson, Chief,

Fluids Adjudication Section.

[FR Doc. 98–8227 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–EN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–4210–05; WYN 139935]

Opening of National Forest System Land; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the temporary segregative effect as to 1120.00 acres of National Forest System lands which were originally included in an application for exchange in the Medicine Bow National Forest.

EFFECTIVE DATE: March 30, 1998.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003–1828, 307–775–6124.

SUPPLEMENTARY INFORMATION: Pursuant to the regulations contained in 43 CFR 2091.3–2(b), at 9 a.m. on March 30, 1998, the following described lands will be relieved of the temporary segregative effect of exchange application WYW 139935. The remaining lands in the application for exchange will continue to be processed as requested.

Sixth Principal Meridian, Wyoming

T. 44 N., R. 63 W.,
sec. 8, E½SE¼, SE¼NE¼;
sec. 21, SW¼SW¼;
sec. 32, SE¼;
sec. 34, E½;
sec. 35, W½SW¼.
T. 42 N., R. 64 W.,
sec. 12, S½SW¼
sec. 18, E½NW¼, NE¼SW¼;
sec. 29, NE¼SW¼;
sec. 30, NE¼NE¼, SW¼NE¼.
T. 42 N., R. 65 W.,
sec. 24, E½SW¼;

The area described contains 1120.00 acres in Weston County.

At 9 a.m. on March 30, 1998 the lands shall be opened to such forms of disposition as may by law be made of National Forest System lands, including location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Appropriation of lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988) shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Alan R. Pierson,

State Director.

[FR Doc. 98–7877 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–08–1420–00]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice.

SUMMARY: The plat of survey of the following described land is scheduled to be officially filed in the Montana State Office, Billings, Montana, thirty (30) days from the date of this publication.

Principal Meridian, Montana

T. 6 N., R. 35 E.

The plat, in two sheets, representing the dependent resurvey of a portion of the subdivisional lines, portions of the adjusted original meanders of the former left bank of the Yellowstone River, in section 22, and the adjusted original meanders of an island (Howreys) that lies within sections 15, 21, and 22, and the subdivision of sections 15 and 22, the survey of a portion of new meanders of the present left bank of the Yellowstone River, in section 22, the new meanders of an island (Howreys) that lies within sections 15, 21, and 22, and certain division of accretion lines in sections 15, 21, and 22, and the survey of a portion of the easterly right-of-way of Montana Secondary Highway No. 311, within sections 21 and 22, Township 6 North, Range 35 East, Principal Meridian, Montana, was accepted March 17, 1998.

This survey was executed at the request of the Bureau of Land Management, Miles City District Office and was necessary to identify and establish property lines caused by a permanent change in the route of the Yellowstone River since the original survey.

A copy of the preceding described plat will be immediately placed in the open files and will be available to the public as a matter of information.

If a protest against this survey, as shown on this plat, is received prior to the date of the official filing, the filing will be stayed pending consideration of the protest. This particular plat will not be officially filed until the day after all protests have been accepted or dismissed and become final or appeals from the dismissal affirmed.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107–6800.

Dated: March 18, 1998.

Steven G. Schey,

Acting Chief Cadastral Surveyor, Division of Resources.

[FR Doc. 98–8233 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–DN–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Trail Study and Final Environmental Impact Statement for the Ala Kahakai Hawai'i Island, Hawaii County, Hawaii; Notice of Availability

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190 as amended), the National Park Service, Department of the Interior, has prepared a Final Environmental Impact Statement (FEIS) which provides an analysis of whether the Ala Kahakai is nationally significant and whether it is feasible and desirable to add it to the National Trails System. The FEIS includes Letters of Comment on the Draft Environmental Impact Statement and responses from the National Park Service. To assist Congress in gauging the feasibility, the study analyzes a range of options for managing the trail.

Findings: The study concludes that the Ala Kahakai is significant (1) under the three criteria for national historic trails outlined in the National Trails System Act, as amended; (2) under National Register of Historic Places criteria A, B, C, and D; and (3) as a traditional cultural property. The study concludes that establishing a continuous trail is physically feasible.

The study concludes that desirability of recognizing the trail rests on two key items: first, communities along the trail corridor, native Hawaiians, and landowners all be involved in planning and implementing the trail; and second, adequate funding must be ensured at the time the trail is designated to fully protect cultural and natural resources.

At their November 21, 1997 meeting, the National Park System Advisory Board recommended a finding that the trail does have national historic significance based on the criteria develop under the Historic Sites Act of 1935.

Alternatives and Recommendation: The study examines four alternatives for future protection, interpretation, and management of the Ala Kahakai: a no-action alternative, a national historic trail (continuous), a state historic trail, and a national historic trail (discontinuous). Additional alternatives which were considered but rejected are summarized. The 60-day public review of the draft EIS ended on October 17, 1997. Four public meetings were held on September 3–5, 1997, in Captain Cook, Waimea, and Hilo. The final study concludes that the national historic trail (continuous) is the environmentally preferred alternative.

The environmental consequences and corresponding mitigations of the alternatives are evaluated in the document. It is anticipated that with funding adequate to implement the recommended planning and management, potential adverse environmental impacts of the action alternatives can be minimized or eliminated. After a 30-day no-action period, the National Park Service will prepare a Record of Decision. It will be forwarded along with the final study to the Secretary of the Interior to be transmitted to the Congress of the United States. Congress will decide which alternative is selected.

SUPPLEMENTARY INFORMATION: The no-action period for this document will end 30 days after the Environmental Protection Agency's listing of the FEIS is published in the **Federal Register**. Comments may be submitted during this period and should be addressed to Superintendent, Pacific Great Basin Support Office, National Park Service, 600 Harrison Street, Suite 600, San Francisco, California 94107, Attention: Meredith Kaplan. For additional information, please write the National Park Service at that address or telephone 415–427–1438.

Copies of the study FEIS are available at the Pacific Great Basin Support Office at the above address and at the National Park Service Pacific Island Support Office, 300 Ala Moana Boulevard, Room 6305, Honolulu, HI 96850.

Dated: March 23, 1998.

Holly Bundock,

Acting Regional Director, Pacific West.

[FR Doc. 98–8275 Filed 3–27–98; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Notice of Public Information Collection Requirements Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503. Copies of submission may be obtained by calling (202) 712–1365.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0550.

Form Numbers: AID 1570–13 and AID 1570–14.

Title: Narrative/Time-Line and Report on Commodities (Quarterly Reports).

Type of Submission: Renew.

Purpose: The purpose of this information collection is to properly respond to the annual competition among applicants who apply on behalf of their sponsored overseas institutions, independent reviewers and ASHA need to assess the strength and capability of the U.S. organizations, the overseas institutions and the merits of their proposed projects. Easily accessible historical records on past accomplishments and performance by repeat USOs, would speed the grant making process and provide documented reasons for both successful and unsuccessful applications.

Annual Reporting Burden:

Respondents: 70.

Total annual responses: 1,470.

Total annual hours requested: 735.

Dated: March 20, 1998.

Willette L. Smith,

Chief, Information and Records Division, Bureau for Management, Office of Administrative Services.

[FR Doc. 98–8229 Filed 3–27–98; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–374 and 731–TA–780 (Preliminary)]

Butter Cookies in Tins From Denmark

Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission determines,[2] pursuant to sections 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a) and 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Denmark of butter cookies in tins, provided for in subheading 1905.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Denmark and sold in the United States at less than fair value (LTFV).

Background

On February 6, 1998, a petition was filed with the Commission and the Department of Commerce by the Hearthside Baking Company, Inc. (D/B/A Maurice Lenell Cooky Company), Chicago, IL, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized and LTFV imports of butter cookies in tins from Denmark. Accordingly, effective February 6, 1998, the Commission instituted countervailing duty investigation No. 701–TA–374 (Preliminary) and antidumping investigation No. 731–TA–780 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 17, 1998 (63 FR 7828). The conference was held in Washington, DC, on February 27, 1998, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on March 23, 1998. The views of the Commission are

[1] The record is defined in § 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Vice Chairman Bragg dissenting.

contained in USITC Publication 3092 (March 1998), entitled "Butter Cookies in Tins from Denmark: Investigations Nos. 701–TA–374 & 731–TA–780 (Preliminary)."

Issued: March 24, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–8149 Filed 3–27–98; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–391]

Overview and Analysis of Current U.S. Unilateral Economic Sanctions

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation, scheduling of public hearing, and notice of opportunity to submit comments.

EFFECTIVE DATE: March 23, 1998.

SUMMARY: Following receipt on February 19, 1998, of a request under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) from the Committee on Ways and Means (the Committee) of the U.S. House of Representatives, the U.S. International Trade Commission (the Commission) instituted investigation No. 332–391, *Overview and Analysis of Current U.S. Unilateral Economic Sanctions.* The Commission plans to submit its report to the Committee by August 19, 1998.

FURTHER INFORMATION CONTACT: James Stamps, Office of Economics (202–205–3227 or e-mail to jstamps@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing-impaired persons are advised that information on this investigation can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Background

As requested by the Committee, the Commission in its report on the investigation will provide:

(1) A description of U.S. unilateral economic sanctions in effect including, to the extent possible, a description of economic sanctions imposed by states and localities;

(2) To the extent possible, a survey of affected U.S. industries on the costs and effects of U.S. unilateral economic sanctions;

(3) A review of recent literature on the economic effects of national-level economic sanctions; and

(4) A proposed methodology to analyze in future studies the short-and long-term costs of U.S. unilateral sanctions and their impact on the U.S. economy.

In its request, the Committee defined the term "unilateral economic sanctions" to mean any unilateral restriction or condition on economic activity with respect to a foreign country or foreign entity that is imposed by the United States for reasons of foreign policy or national security. The Committee said that the Commission should exclude from this definition: (1) U.S. economic sanctions imposed pursuant to a multilateral regime when the other members of that regime have agreed to impose substantially equivalent measures; (2) U.S. measures imposed to remedy unfair trade practices or to enforce United States rights under a trade agreement, including under section 337 of the Tariff Act of 1930, title VII of that Act, title III of the Trade Act of 1974, sections 1374 and 1377 of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3103 and 3106), and section 3 of the Act of March 3, 1933 (41 U.S.C. 10b–1); (3) any measure imposed to remedy market disruption or to respond to injury to a domestic injury for which increased imports are a substantial cause or threat thereof, including remedies under sections 201 and 406 of the Trade Act of 1974, and textile import restrictions including those imposed under section 204 of the Agricultural Act of 1956 (7 U.S.C. 1784); (4) any action taken under title IV of the Trade Act of 1974, including the enactment of a joint resolution under section 402(d)(2) of that Act; (5) any measure imposed to restrict imports of agricultural commodities to protect food safety or to ensure the orderly marketing of commodities in the United States, including actions taken under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624); (6) any measures imposed to restrict imports of any other products in order to protect domestic health or safety; (7) any measure authorized by, or imposed under, a multilateral or bilateral trade agreement to which the United States is a signatory, including the Uruguay Round Agreements, the North American Free Trade Agreement, the United States-Israel Free Trade Agreement, and the United States-Canada Free Trade Agreement; and (8) any export control imposed on any item on the United States Munitions List.

Public Hearing

A public hearing in connection with this investigation will be held in the Commission Hearing Room, 500 E Street, SW, Washington, DC 20436, beginning at 9:30 am on May 14 (and May 15 if needed), 1998. All persons will have the right to appear by counsel or in person, to present testimony, and to be heard. Requests to appear at the public hearing should be filed in writing with the Secretary, United States International Trade Commission, 500 E Street, SW, Washington, DC 20436, on or before April 30, 1998. Persons testifying at the hearing are encouraged to file prehearing briefs or statements; the deadline for filing such briefs or statements (a signed original and 14 copies) is April 30, 1998. The deadline for filing posthearing briefs or statements is May 22, 1998. Any confidential business information included in such briefs or statements or to be submitted at the hearing must be submitted in accordance with the procedures set forth in § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6).

In the event that, as of COB April 30, 1998, no witnesses have filed a request to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after April 30, 1998, to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to participating in the hearing, interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat a confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's rules of practice and procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted at the earliest practical date and should be received not later than COB May 22, 1998. All submissions should be addressed to the Secretary, United States International Trade

Commission, 500 E Street SW, Washington, DC 20436.

Accessibility

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: March 24, 1998.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 98–8150 Filed 3–27–98; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Program Act, Disability Grant Program Funded Under Title III, Section 323 and Title IV, Part D, Section 452

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of Availability of Funds and Solicitation for Grant Application (SGA).

SUMMARY: All information required to submit a grant application is contained in this announcement. The U.S. Department of Labor, Employment and Training Administration (DOL/ETA), announces the availability of approximately $4.17 million to award competitive grants for multi-state employment and training projects serving people with disabilities. This grant program is funded using Job Training and Partnership Act (JTPA) Title IV Research and Demonstration funds and Title III National Reserve funds.

DATES: Applications for this SGA will be accepted commencing April 29, 1998. The closing date for receipt of proposals is 2:00 (Eastern Standard Time) May 14, 1998.

ADDRESSES: Applications should be mailed to: Division of Acquisition and Assistance, Attention: Dr. David Houston, Reference SGA/DAA 98–007, 200 Constitution Avenue, N.W., Rooms S–4203, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Dr. David Houston, Division of Acquisition and Assistance, Telephone (202) 219–7300 (not a toll-free number). This solicitation will also be published on the Internet at http://www.doleta.gov.

SUPPLEMENTARY INFORMATION: This announcement consists of five parts: Part I—Application Process, Part II—Background and Purpose, Part III—Statement of Work, Part IV—Government Requirements, and Part V—Selection Criteria.

Part I. Application Process

A. Submission of Proposal

A proposal shall consist of two (2) separate and distinct sections: Section I, the Technical Proposal and Section II, the Financial Proposal. An original and three copies of the proposal shall be submitted. The Catalog of Federal Domestic Assistance number is 17.249.

Section I shall contain a Technical Proposal that demonstrates the applicant's capabilities in accordance with the Statement of Work in Part III of this solicitation. No cost data or reference to costs shall be included in the Technical Proposal. In addition, the Technical Proposal shall be limited to 50 double-spaced, single-side, 8.5 inch × 11 inch pages with 1 inch margins. Appendices shall not exceed 20 pages. Text type shall be 12 point or larger. Applications not meeting these requirements may not be considered. The *Technical Proposal* must also contain participant, activity and outcome information.

Section II, the Financial Proposal shall contain the SF–424, "Application for Federal Assistance", and Budget Information Sheet (Attachments A & B). In addition, the budget shall include on a separate page a detailed cost analysis of each line item. *Administrative costs should not exceed 15 percent of total proposed costs.* Justification must be provided on the need for administrative costs that exceed this limit. Approval of a budget by DOL is not the same as approval of actual costs.

Hand Delivered Proposals

Proposals may be mailed or delivered by hand. A mailed proposal should be mailed no later than five (5) days prior to the closing date for the receipt of applications. Hand delivered grant applications must be received at the designated place by 2:00 p.m. (Eastern Standard Time) on May 29, 1998. All overnight mail will be considered to be hand-delivered and must be received at the designated place by the specified time on the closing date. Grant applications transmitted by electronic mail, telegraph or facsimile will not be considered.

Late Proposals

Any proposals received at the Office designated in the solicitation, after the exact time specified for receipt, will not be considered unless it is received before the award is made or was either:

(1) Sent by U.S. Postal Service registered or Certified mail not later than the fifth (5th) calendar day before the date specified for receipt of application, or

(2) Sent by U.S. Postal Express Mail Next Day Service—Post Office to Addressee, not later than 5 p.m. at the place of mailing two working days prior to the date specified for receipt of proposals. The term "working days" excludes weekends and U.S. Federal holidays. The only acceptable evidence to establish the date of mailing of a late proposal sent by either Express Mail or U.S. Postal Service Registered, Certified Mail is the U.S. Postmark both on the envelope or wrapper and on the original receipt from the U.S. Postal Service. Both postmarks must show a legible date or the proposal shall be processed as if mailed late. "Postmark" means a printed, stamped, or otherwise placed impression (exclusive of a postage meter machine impression) that is readily identifiable without further action as having been supplied and affixed by employees of the U.S. Postal Service on the date of mailing.

Therefore, applicants should request the postal clerk to place a legible hand cancellation "bull's eye" postmark on both the receipt and the envelope or wrapper.

B. Eligible Applicants

Private non-profit entities are eligible to receive grant funds under this award. Entities described in Section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible to receive funds under this SGA. The Lobbying Disclosure Act of 1995, 2 U.S.C. 1601 *et seq.* prohibits the award of federal funds to 501(c)(4) entities engaged in lobbying activities.

Applicants must operate or propose to operate in two or more states. Applicants should provide documentation of knowledge and/or experience in the following areas:

—Overcoming barriers to employment experienced by individuals with disabilities;

—Ability to conduct training, placement, and follow-up services; and

—Management and accountability structure necessary to ensure the integrity of the funds requested (by meeting the standards for financial management and participant data systems as specified in 29 CFR, Part 95).

Only the proposal per applicant/organization(s) is permitted. A proposal submitted by a consortium of two or more organizations will be accepted.

However, another proposal submitted separately by a member of the consortium will not be accepted.

C. Period of Performance

The period of performance will be twelve (12) months. (Planned dates are July 1, 1998 through June 30, 1999).

D. Option to Extend

Based on the availability of funds, project performance and the needs of the Department, grants may be extended for an additional one or two years of operation. The Department reserves the right to impose additional requirements or refinements in program design if the project is extended for a second and/or third year grant period.

E. Scope of Award

DOL/ETA anticipates making awards that range from $300,000 to $800,000. Proposals with costs exceeding $800,000 will not be considered. Title III funds are included in the total funds available. Therefore, some awards will be funded in whole, or in part, with Title III funds based on the extent to which the proposal is targeted to disabled individuals who also qualify as dislocated worker under Title III (see Definitions). Awards will be made on a competitive basis.

Part II. Background and Purpose

A. Background

DOL/ETA has provided grant awards for approximately twenty years to organizations providing employment and training services to individuals with disabilities. In the past, these grants have been awarded under the authority of Title IV, section 451(c)(5) of the Job Training Partnership Act (JTPA). Ten organizations received grant awards to operate programs under these provisions in Program Year (PY) 1995. These grants end on June 30, 1998. Several changes have occurred since the inception of these national disability grant programs. Societal and systemic changes have directly impacted individuals with disabilities and their opportunities in the workforce. Some of these changes were: the 1990 enactment of the American's with Disabilities Act (ADA), "mainstreaming" of people with disabilities into schools and the workplace, workforce development restructuring and consolidation, decentralizing responsibilities to state and local levels, technological advances, and telecommunicating. Individuals with disabilities continue to experience high levels of unemployment, particularly those with severe disabilities. The Census Bureau Brief (CENBR/97–5) (December 1997) shows that the unemployment rate for those with severe disabilities is 74 percent, compared to 23 percent for those with less severe disabilities. This rate is occurring in a national employment environment where the overall unemployment rate is less than five (5) percent, the lowest level in 25 years. Executive Order 13078, "Increasing Employment of Adults with Disabilities," was issued March 13, 1998 establishing a National Task Force chaired by the Secretary of Labor. The purpose of the task force is to address the significant levels of unemployment faced by individuals with disabilities.

This supports DOL/ETA's decision to reconsider the purpose of ETA's disability grant program. Therefore, the 1998 grants awards will be authorized under the authority of Title IV, section 452(a) of JTPA for research and demonstration grants. "To assist the Nation in expanding work opportunities and assuring access to those opportunities for all who desire it * * *"

B. Purpose

The primary purpose of this award is to implement strategies to improve access to long term quality employment, employment outcomes, and skills that address the needs of the disabled population, particularly those with severe disabilities. In this program, the quality of employment outcomes are more important than the number of placements. Of particular importance are skills and employment training that enable individuals to move to unsubsidized employment.

Innovation, coordination and partnerships, non-duplication of existing services, and leveraging of scarce resources are also important factors. In addition, DOL is interested in identifying successful project designs that can be shared and replicated as state workforce system changes proceed.

DOL is seeking applications that address one or more of the following concerns:

—Strategies for high quality, long term employment of individuals are *severe disabilities,* including those with a specific disabling condition or who also may be members of a subgroup (e.g. minorities, youth, older workers),
—Strategies for *re-employment* of individuals with disabling conditions (e.g., brain/spinal cord injury from accident, emotional/psychiatric conditions, multiple sclerosis) resulting in dislocation from employment and a need for retraining,
—Linkages with public (national, state and local) and/or private delivery systems, disability consumer organizations (e.g., independent living centers), and other entities that address *significant employment barriers* (e.g., lack of medical coverage, transportation needs, personal care requirements),
—Linkages with existing service strategies that build-on and *facilitate workforce development* (e.g., One-Stop Career Centers, School-to-Work,) and other systemic changes impacting individuals with disabilities (e.g., Social Security Return-to-Work programs, Welfare-to-Work implementation, State Medicaid waiver strategies),
—*Innovative approaches* utilizing technology, novel training and workplace strategies or other approaches (e.g., distance learning, out-stationed work sites, entrepreneurship) which result in significant employment outcomes.

DOL expects the awardee to evaluate and refine their proposed project as it progresses Changes impacting the agreed upon Statement of Work must be coordinated with ETA. A primary evaluation function will be performed by DOL. Therefore, proposals need not identify evaluation strategies.

Grant funds are available under both Title III and IV of JTPA and will be used to serve disabled participants who may also qualify as dislocated workers.

Part III. Statement of Work

A. Project Design

Project designs should include demonstration sites in two or more states. Projects should be designed to: (1) test the effectiveness of project strategy in diverse state systems and potential for replication, (2) build on a variety of National efforts involving individual state workforce development systems, and (3) allow for analysis of different state/local service structures. Minimum cost per site shall be $75,000.

Each grant application shall follow the format outlined below providing detailed information pertinent to each demonstration site.

1. Target Population

Participants for proposed project must be individuals with disabilities (i.e., physical, sensory, emotional, or mental functional impairments) as defined in the ADA regulations at 29 CFR, Part 1630.2. Describe characteristics of client population to which proposal is targeted including, where applicable: (1) specific type(s) of disability, e.g., psychiatric disorders, cerebral palsy, (2) specific subgroup of disabled population, e.g., minority, youth, older workers, (3) barriers to employment, e.g., medical

health coverage, (4) how project design proposes to address barriers, (5) why the project design will result in quality career and/or employment outcomes, and (6) what innovative and coordinated approaches will be utilized in serving the target population.

Project designs should address the needs of individuals with disabilities who are unable to obtain or retain employment or who are underemployed. Justifications should be provided for the selected target group that includes specific information on inability to obtain or retain employment and/or underemployment.

Proposals must also provide the following planning information on the participants to be served in project design, in total and by project site:

- The number of participants (identify reenrollments, if applicable),
- The number of participants who satisfy the criteria for JTPA Title III-funded programs,
- The age range of participants (e.g., under 22, 23–50, 51–65),
- The number of participants who receive Supplemental Security Income and/or Social Security Disability Income (SSI/SSDI),
- The number of participants to be referred by Vocational Rehabilitation Agencies.

Applicants may also provide other information about participants considered important such as educational level, number of minority or ethnic, etc.

Recruitment: Describe how target population will be recruited for participation at each site. Describe how outreach and recruitment addresses the overall design of the project. Identify how workforce development systems and consumer organizations are utilized in the recruitment process. In addition, the design should describe the interventions that would be undertaken to minimize periods of unemployment.

Eligibility: Describe the eligibility process for project participants. This includes the process for determining ADA qualification and verification process for Title III eligibility, if target population includes disabled individuals who are also dislocated workers.

Assessment: Describe the process for evaluating participants skill levels, education levels, career interests, accommodation requirements, training and services, and other barriers and needs. Narrative should identify whether assessment will be conducted by the awardee or another service provider.

2. Training and Supportive Services

The design should describe training and services to be provided from the time of selection of participants through placement in unsubsidized employment and follow-up. Description should include a rationale for activities and services in terms of overall project design, overcoming employment, barriers of planned participants, and achieving quality employment outcomes. Narratives should provide a clear understanding of services and supports needed for successful placement and job retention. This description may include the Return-To-Work program, Plan for Achieving Self Support (PASS) program, Medicaid waivers, and other work related incentives. The design should also include information on how training and service design will improve long-term career potential for participants.

DOL/ETA is encouraging program designs utilizing innovative "work-first" strategies providing early entry into integrated and competitive work-settings. This approach may include on-the-job training, immediate job placement, post-placement training, and/or services. Program design should include post-placement follow-up of 30, 60, and 180 days.

The design must provide information on planned activities and services to participants including project total and total per site. This must include the number of participants to be served in job search assistance (only) basic educational training, job skill training, on-the-job training, work readiness and work experience, and post-placement training and job retention services. Planned participation in more than one activity should be noted, where applicable. Identify other sources of funds to be utilized for training or services to participants that is a part of the overall project design but will not be funded by DOL/ETA.

3. Employment Outcomes

Available Jobs: Based on labor market information, project design should describe jobs that are expected to be available to participants upon completion of training and placement services, probable wage levels, the potential for advancement, and career path. The design should, also, identify how and why job placement and retention for participant group will more likely occur as a result of the proposed project. Narrative should indicate what new employers and/or occupations are the focus of project design compared to applicants' current or previous grant programs, if applicable.

Provide information that indicates the availability of suitable jobs for participants, prevailing wage levels, career potential and opportunities for advancement. Include information on the number and type of jobs and the availability of qualified workers. Sources of information should be identified.

Special Wage Waivers Under Fair Labor Standards Act: Employment in jobs, and/or related training, approved for Special Minimum Wage Certificates under Part 525 of the Fair Labor Standards Act (FLSA), as amended, will not be considered as an allowable activity or outcome.

Organizations receiving FLSA special wage certifications must provide assurances and verification that FLSA special wage training and placement are not incorporated within proposed project design.

Planned Placements: The design must indicate how many placements in unsubsidized, competitive employment are expected to result from activities at each site. A description of the quality of these job placements should also be included. Because of project start-up, a high rate of job placement may not be a realistic outcome within the initial grant period. Information on participant flow from intake, assessment through placement should be provided indicating clearly when placement will occur.

Planned outcome information should be provided, including project total and total per site: (1) number of terminees completing program, (2) number of placements in unsubsidized employment, (3) number of placements in full time employment (35 hours per week or more), (4) the number of indirect placement, (5) the average hourly wage, and placements with durations of 180 days and more.

Applicants are also requested to provide an explanation, if applicable, on "temporary job" placements; and the extent to which program participants and/or recipients of SSDI/SSI are expected to transition to economic self-support in the mainstream workforce.

Applicants are requested to describe methods of ongoing assessment of "customer satisfaction" and how results will be used in project operation. The DOL Government Performance and Result's Act (GPRA) Program Year (PY) 1998 goal for the disability grant program is an "entered employment rate" of 47 percent. If applicant does not anticipate achieving this competitive placement level, an explanation should

be provided on why this level may not be reached.

4. Innovation

Describe any innovations in the proposed project, including (but not limited to) innovations relating to the target population, delivery of services, training methods, job development, or job retention strategies. Describe new directions or approaches to address significant unemployment levels of people with disabilities. Explain how the proposed project: (1) will be applicable to disability issues of national scope; (2) is similar to or differs from the applicant's prior and current activities; and (3) does not duplicate existing employment and training program.

Because the information technology industry currently represents close to 50 percent of the nation's economic growth, applicants should consider how they might initiate the development of new collaborative processes at the regional and local levels, thereby leveraging private sector, school, and local government resources in order to expand workplace opportunities for individuals with disabilities.

5. Coordination and Linkages

Describe coordination with state and local utilities, consumer organizations, and/or others in the design and implementation of the proposed project. State/local One-Stop Career Center systems, School-to Work initiatives, Welfare-to Work programs, and Bureau of Apprenticeship Training programs should be included as partners, if applicable. Applications may also identify coordination strategies with Vocational Rehabilitation Agencies, educational institutions, and labor organizations.

Partnership efforts should deal with major employment obstacles of insufficient medical coverage and/or other barriers to employment (e.g., transportation, personal assistance needs, job coach requirements). Describe coordination efforts with Social Security return-to-work incentives (e.g., PASS, Impairment Related Work Expenses) see Social Security Act, section 1619(a) and (b)). Applicants should indicate the impact of proposed project on system changes underway and how non-grant funds are being leveraged. Identify funds are resources to be contributed to the project by the applicant and/or partnership entities. Evidence should be presented that demonstrates cooperation of coordinating entities. The design should include a reasonable method of assessing and reporting on the impact of such coordination. Consultation with and/or review by appropriate labor organizations, where applicable, is encouraged and should be documented.

B. Management and Administration

1. Management Structure

Describe the management structure for the proposed project, including a staffing plan showing each position and the percentage of time assigned to the project. Provide an organizational chart showing the relationship between the management and operational components of the project and the overall organization. Include staff and operations projected for each demonstration site. Include resumes of current key staff. For each of the key staff not identified at the time of application, provide a job description or the qualifications sought for the position. Provide information on business advisory councils, board of directors, or other administrative structures of the organization, including current membership.

2. Program Integrity and Public Accountability

Describe the mechanisms to be used to ensure financial and program accountability in record keeping and reporting. The design must demonstrate oversight of project implementation, and progress benchmarks, for each site. Described how the project will keep records of activities and satisfy the administrative requirements set out under 20 CFR 631.64, and at 29 CFR Part 95, 96, and 98.

The designs must include a comprehensive discussion describing in detail, types of information to be collected, methods and frequency of collections, and ways information will be used to implement and manage the program. The following must be covered:

(1) Program data collection and reporting systems to determine the achievement of project outcomes,

(2) Financial management system to ensure fiscal accountability in accordance with statutory, regulatory, and contractual requirements,

(3) Communications processes and technology which will be utilized,

(4) Administrative process for each project site, and

(5) Grievance procedure.

3. Monitoring

Awardee will be responsible for monitoring and oversight of all activities under the grant. Identify the information on project performance and financial management to be collected on a short-term basis by project staff.

Describe the process, frequency, and rationale for frequency of on-site monitoring of each project site, including employer site visits, if applicable. Also, describe monitoring in terms of on-going evaluation of proposed project design. Describe the process and procedures to be used to obtain feedback from participants, employers, and any other appropriate parties on the responsiveness and effectiveness of the services provided.

4. Grievance Procedure

Describe the grievance procedure to be used for grievances and complaints from participants, contractors, and other interested parties, consistent with requirements at 20 CFR 631.64(c)(1).

5. Previous Project Management Experience

Provide objective evidence of the grant applicant's ability to manage such a project, ensure the integrity of the grant funds, and deliver the proposed performance. Indicate the grant applicant's past management experience, particularly regarding oversight and operating functions including financial management and relevant audit or grant reviews of the organization. Provide references and/or contact persons of former or current funding organizations.

C. Definitions

For the purpose of this demonstration project, the following definitions apply to the specified terms, as used in this SGA.

Dislocated Worker—See regulations as specified in See statutory definition pursuant to JTPA 301(a)1) and the regulatory eligibility requirements at 20 CFR 6311.3 (Federal Register September 2, 1994).

Long-Term Unemployment—includes a period of non-work (except for periodic periods of subsistence jobs) of four months up to five years. Prior employment which does not offer the opportunity for self-sufficiency of the individual or the individual's family will not preclude an individual's participation in this project under the requirement of "limited opportunities for employment or reemployment in the same area in which such individuals reside."

Severe Disability—See Vocational Rehabilitation Act regulations at 34 CFR Ch. III, Section 369.4 (7/1/97 edition).

Basic Education—Training activities designed to enhance the employability of participants by upgrading basic skills (e.g., General Equivalency Diploma (GED), remedial education or training in English language proficiency).

Job Skills—Training conducted in an institutional setting, and designed to provide individuals with technical skills and information required to perform a specific job or group of jobs (e.g., vocational technical school, community college, etc.).

On-the-Job Training (OJT)—Training provided to an individual hired first by the employer while he/she is engaged in productive work which provides knowledge or skills essential to the full and adequate performance of the job (See 20 CFR 632.78(b)).

Work Experience (WE)—A short-term or part-time work activity in the public or not-for-profit sector providing individuals, with opportunities to acquire skills and knowledge necessary to perform a job, including appropriate work habits and behaviors. (See 20 CFR 632.79(B)).

Job Search Assistance—This includes, but is not limited to:

(1) Orientation to the world of work
(2) Training/Job-related counseling and testing
(3) Employability assessment (other than that involved during intake)
(4) Job development
(5) Job search assistance
(6) Job referral and placement

Job Placement—Placement consisting of a minimum of 20 hours during one week of unsubsidized funding.

Post-Employment/Job Retention Services—Supportive services which may include, but is not limited to, post placement follow-up activities, work site evaluation and accommodation assistance, and training services provided following placement in unsubsidized, competitive employment.

Unsubsidized/Competitive Employment—Non-grant or supported employment which includes, entry into the Armed Forces (including entry onto active duty from Reserve and National Guard units), entry into employment in a registered apprenticeship program, self-employment, etc. Employment performed on a full-time or part-time basis in an integrated setting in which wages/salaries are at or above minimum wage. Employment with special wage provisions authorized under Title 29, Part 525 of the Fair Labor Standards Act *are not* considered unsubsidized nor competitive for the purpose of this grant.

Part IV. Government Requirements

A. Reporting Requirements

DOL intends to develop a standard for reporting in conjunction with awardees and general public as required by OMB. Applicants will be required to submit financial, program, and participant reports on a quarterly, semi-annual or annual basis. Grantees will complete Quarterly Financial Reports (OFR) SF–269 and Quarterly Progress Reports (QPR). The QPR shall include both a narrative and statistical format. Specify in the QFR's "remarks" section, the amount spent for Title III. Also include an attachment outlining expenditures in the major categories (e.g., personnel, travel, supplies, equipment, contractual). An original and two copies of the QPR and the QFR will be sent not later than 30 days after the end of each quarter. In addition, Annual Participant and/or Program Service Reports may be required to obtain information on: (a) types of services provided, (b) number of clients served by disability, race, national origin, gender, age, SSI/SSDI, AFDC, and (c) the number of clients with a severe disability served. Detailed requirements for submitting these reports will be included in the grant award document.

B. Evaluation

The Department of Labor plans to conduct a quantitative and qualitative evaluation that provides an in-depth analysis and assessment of the grant program, including: (1) how project addressed barriers to employment by individual participants, e.g., health benefits, transportation, personal assistance needs, (2) improvements or changes to systemic linkages, (3) successful project design components that result in improved outcomes, and (4) the success of the program in achieving program objectives. The evaluation will be coordinated with awardees who must make available records on participants employers, and provide access to personnel and staff.

C. Departmental Oversight

DOL reserves the right to conduct programmatic and financial oversight/monitoring of grant and project sites.

D. Use of Federal Funds

Federal funds cannot be used to support activities which would be provided in the absence of these funds. Grant funds may cover only those costs which are appropriate and reasonable. Federal grant funds may only be used to acquire equipment which is necessary for the operation of the grant.

Grantees must receive prior approval from the DOL/ETA Grant Officer for the purchase and/or lease of any property and/or equipment as defined in "Grants and Agreements with Institutes of Higher Education, Hospitals and Other Non-Profit Organizations", codified at 29 CFR Part 95. Request for prior approval, if applicable, may be included in the grant budget application or submitted after grant award.

Part V. Selection Criteria

Selection of awards will be made after careful evaluation of proposals by a panel of specialists. *Ratings will reflect the quality of documentation, justification, and evidence of activities included in the management and design of the projects.* Panelists will evaluate the proposals for acceptability based on responsiveness to the Statement of Work, with emphasis on the following:

A. Project Design (40 Points)

Proposals will be evaluated based on the extent to which the activities and/or services address the following:

(1) Overcoming barriers to employment experienced by individuals in the target population,

(2) Increasing the likelihood that individuals with disabilities will achieve sustained, quality employment at a living wage,

(3) Providing opportunities for career advancement,

(4) Incorporating "work-first" strategies,

(5) Addressing skill shortages in the information technology industry,

(6) Fulfilling a gap in current services delivery system,

(7) Incorporating advanced skill levels or other approaches leading to long term employment and career potential

(8) Incorporating innovative approaches and linkages with other service providers in the design of the project.

B. Management and Administration (25 Points)

Proposals will be evaluated based upon the following:

(1) Applicants' management structure including a staffing plan, organization chart, operational components, etc.,

(2) A time-line of the proposed schedule for implementing the program,

(3) A description of the mechanism used to ensure financial and program accountability in record keeping and reporting,

(4) A description of the monitoring system,

(5) The qualifications of the persons designated for key executive, managerial, and technical positions,

(6) The applicants capabilities to coordinate and form linkages with other organizations involved in serving the target population.

C. Target Population (20 Points)

Proposals will be evaluated based on the following:

(1) Identification of specific group of individuals to be served who are

disabled and who face significant barriers to employment,

(2) Demonstration that the applicant understands the needs of the group to be served,

(3) Documentation that individuals in the identified target group are available in sufficient numbers,

(4) Recruitment process,

(5) Eligibility verification, and

(6) Assessment processes.

D. Previous Experience (15 Points)

Applicants will be evaluated on their experience in providing education, training and/or other employment-related services for individuals with disabilities. Consideration will be given to information regarding efforts to coordinate and form linkages with other organizations involved Applicants will be evaluated on their experience in providing education, training and/or other employment-related services for individuals with disabilities. Consideration will be given to information regarding efforts to coordinate and form linkages with other organizations involved with the target population. Applicants must demonstrate, providing supporting information, that they have successfully organized, managed, and completed projects, and/or that they have projects with successful audit results, and have received funds from federal or other sources.

Panel results are advisory in nature to the Grant Officer who makes the final decision. Applicants are advised that discussions may be necessary to clarify any inconsistencies in their applications. The final decisions on awards will be based on what is most advantageous to the Federal Government as determined by the Grant Officer. The Department may elect to award a grant without discussion with the applicant. Such award would be based on the applicant's proposal without alteration. The applicant's signature on the SF–424 constitutes a binding offer.

Signed at Washington, DC, March 24, 1998.

James C. De Luca,

Grant Officer, Office of Grants and Contracting Management, Division of Acquisition and Assistance.

Attachments

1. Appendix A—"Application for Federal Assistance" (Standard Form 424)
2. Part II—Budget Information
3. Financial Status Report Form (Standard Form 269)

BILLING CODE 4510–30–M

APPLICATION FOR FEDERAL ASSISTANCE

OMB Approval No. 0348-0043

		2. DATE SUBMITTED	Applicant Identifier
1. TYPE OF SUBMISSION: Application ☐ Construction ☐ Non-Construction	Preapplication ☐ Construction ☐ Non-Construction	3. DATE RECEIVED BY STATE	State Application Identifier
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address (give city, county, State and zip code):	Name and telephone number of the person to be contacted on matters involving this application (give area code):

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐-☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipa
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J . Private University
K Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER:

☐☐-☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT (cities, counties, States, etc.):

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a. Typed Name of Authorized Representative	b. Title	c. Telephone number

d. Signature of Authorized Representative	e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:
1.	Self-explanatory.
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3.	State use only (if applicable)
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5.	Legal name of applicant, name of primary organizational unit which will undertake this assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7.	Enter the appropriate letter in the space provided.
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided. - "New" means a new assistance award. - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9.	Name of Federal agency from which assistance is being requested with this application.
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is required.
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of the project.
12.	List only the largest political entities affected (e.g., State, counties, cities.
13.	Self-explanatory.
14.	List the applicant's Congressional District and any District(s) affected by the program or project.
15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

	(A)	(B)	(C)
1. Personnel			
2. Fringe Benefits (Rate %)			
3. Travel			
4. Equipment			
5. Supplies			
6. Contractual			
7. Other			
8. Total, Direct Cost (Lines 1 through 7)			
9. Indirect Cost (Rate %)			
10. Training Cost/Stipends			
11. TOTAL Funds Requested (Lines 8 through 10)			

SECTION B - Cost Sharing/ Match Summary (if appropriate)

	(A)	(B)	(C)
1. Cash Contribution			
2. In-Kind Contribution			
3. TOTAL Cost Sharing / Match (Rate %)			

NOTE: Use Column A to record funds requested for the initial period of performance (i.e. 12 months, 18 months, etc.); Column B to record changes to Column A (i.e. requests for additional funds or line item changes; and Column C to record the totals (A plus B).

INSTRUCTIONS FOR PART II - BUDGET INFORMATION

SECTION A - Budget Summary by Categories

1. *Personnel: Show salaries to be paid for project personnel.*

2. *Fringe Benefits: Indicate the rate and amount of fringe benefits.*

3. *Travel: Indicate the amount requested for staff travel. Include funds to cover at least one trip to Washington, DC for project director or designee.*

4. *Equipment: Indicate the cost of non-expendable personal property that has a useful life of more than one year with a per unit cost of $5,000 or more.*

5. *Supplies: Include the cost of consumable supplies and materials to be used during the project period.*

6. *Contractual: Show the amount to be used for (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts/grants.*

7. *Other: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants.*

8. *Total, Direct Costs: Add lines 1 through 7.*

9. *Indirect Costs: Indicate the rate and amount of indirect costs. Please include a copy of your negotiated Indirect Cost Agreement.*

10. *Training /Stipend Cost: (If allowable)*

11. *Total Federal funds Requested: Show total of lines 8 through 10.*

SECTION B - Cost Sharing/Matching Summary

Indicate the actual rate and amount of cost sharing/matching when there is a cost sharing/matching requirement. Also include percentage of total project cost and indicate source of cost sharing/matching funds, i.e. other Federal source or other Non-Federal source.

NOTE:

PLEASE INCLUDE A DETAILED COST ANALYSIS OF EACH LINE ITEM.

FINANCIAL STATUS REPORT
(Long Form)
(Follow instructions on the back)

1. Federal Agency and Organizational Element to Which Report Is Submitted	2. Federal Grant or Other Identifying Number Assigned By Federal Agency	OMB Approval No. 0348-0039	Page of pages
3. Recipient Organization (Name and complete address, including ZIP code)			
4. Employer Identification Number	5. Recipient Account Number or Identifying Number	6. Final Report ☐ Yes ☐ No	7. Basis ☐ Cash ☐ Accrual
8. Funding/Grant Period *(See Instructions)* From: (Month, Day, Year)	To: (Month, Day, Year)	9. Period Covered by this Report From: (Month, Day, Year)	To: (Month, Day, Year)

10. Transactions:	I Previously Reported	II This Period	III Cumulative
a. Total outlays			
b. Refunds, rebates, etc.			
c. Program income used in accordance with the deduction alternative			
d. Net outlays *(Line a, less the sum of lines b and c)*			
Recipient's share of net outlays, consisting of:			
e. Third party (In-kind) contributions			
f. Other Federal awards authorized to be used to match this award			
g. Program income used in accordance with the matching or cost sharing alternative			
h. All other recipient outlays not shown on lines e, f or g			
i. Total recipient share of net outlays *(Sum of lines e, f, g and h)*			
j. Federal share of net outlays *(line d less line i)*			
k. Total unliquidated obligations			
l. Recipient's share of unliquidated obligations			
m. Federal share of unliquidated obligations			
n. Total Federal share *(sum of lines j and m)*			
o. Total Federal funds authorized for this funding period			
p. Unobligated balance of Federal funds *(Line o minus line n)*			
Program income, consisting of:			
q. Disbursed program income shown on lines c and/or g above			
r. Disbursed program income using the addition alternative			
s. Undisbursed program income			
t. Total program income realized *(Sum of lines q, r and s)*			

11. Indirect Expense	a. Type of Rate *(Place "X" in appropriate box)* ☐ Provisional ☐ Predetermined ☐ Final ☐ Fixed			
	b. Rate	c. Base	d. Total Amount	e. Federal Share

12. *Remarks: Attach any explanations deemed necessary or information required by Federal sponsoring agency in compliance with governing legislation.*

13. Certification: **I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents.**

Typed or Printed Name and Title	Telephone (Area code, number and extension)
Signature of Authorized Certifying Official	Date Report Submitted

Previous Edition Usable
NSN 7540-01-012-4285

269-104

Standard Form 269 (Rev. 7-97)
Prescribed by OMB Circulars A-102 and A-110

200-498 P.O. 139 (Face)

FINANCIAL STATUS REPORT
(Long Form)

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET.

Please type or print legibly. The following general instructions explain how to use the form itself. You may need additional information to complete certain items correctly, or to decide whether a specific item is applicable to this award. Usually, such information will be found in the Federal agency's grant regulations or in the terms and conditions of the award (e.g., how to calculate the Federal share, the permissible uses of program income, the value of in-kind contributions, etc.). You may also contact the Federal agency directly.

Item	Entry
1, 2 and 3.	Self-explanatory.
4.	Enter the Employer Identification Number (EIN) assigned by the U.S. Internal Revenue Service.
5.	Space reserved for an account number or other identifying number assigned by the recipient.
6.	Check *yes* only if this is the last report for the period shown in item 8.
7.	Self-explanatory.
8.	Unless you have received other instructions from the awarding agency, enter the beginning and ending dates of the current funding period. If this is a multi-year program, the Federal agency might require cumulative reporting through consecutive funding periods. In that case, enter the beginning and ending dates of the grant period, and in the rest of these instructions, substitute the term "grant period" for "funding period."
9.	Self-explanatory.
10.	The purpose of columns I, II, and III is to show the effect of this reporting period's transactions on cumulative financial status. The amounts entered in column I will normally be the same as those in column III of the previous report *in the same funding period*. If this is the first or only report of the funding period, leave columns I and II blank. If you need to adjust amounts entered on previous reports, footnote the column I entry on this report and attach an explanation.
10a.	Enter total gross program outlays. Include disbursements of cash realized as program income if that income will also be shown on lines 10c or 10g. Do not include program income that will be shown on lines 10f or 10s. For reports prepared on a cash basis, outlays are the sum of actual cash disbursements for direct costs for goods and services, the amount of indirect expense charged, the value of in-kind contributions applied, and the amount of cash advances and payments made to subrecipients. For reports prepared on an accrual basis, outlays are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expense incurred, the value of in-kind contributions applied, and the net increase or decrease in the amounts owed by the recipient for goods and other property received, for services performed by employees, contractors, subgrantees and other payees, and other amounts becoming owed under programs for which no current services or performances are required, such as annuities, insurance claims, and other benefit payments.
10b.	Enter any receipts related to outlays reported on the form that are being treated as a reduction of expenditure rather than income, and were not already netted out of the amount shown as outlays on line 10a.
10c.	Enter the amount of program income that was used in accordance with the deduction alternative.
Note:	Program income used in accordance with other alternatives is entered on lines q, r, and s. Recipients reporting on a cash basis should enter the amount of cash income received; on an accrual basis, enter the program income earned. Program income may or may not have been included in an application budget and/or a budget on the award document. If actual income is from a different source or is significantly different in amount, attach an explanation or use the remarks section.
10d.	e, f, g, h, i and j. Self-explanatory.
10k.	Enter the total amount of unliquidated obligations, including unliquidated obligations to subgrantees and contractors. Unliquidated obligations on a cash basis are obligations incurred, but not yet paid. On an accrual basis, they are obligations incurred, but for which an outlay has not yet been recorded. Do not include any amounts on line 10k that have been included on lines 10a and 10j. On the final report, line 10k must be zero.
10l.	Self-explanatory.
10m.	On the final report, line 10m must also be zero.
10n.	o, p, q, r, s and t. Self-explanatory.
11a.	Self-explanatory.
11b.	Enter the indirect cost rate in effect during the reporting period.
11c.	Enter the amount of the base against which the rate was applied.
11d.	Enter the total amount of indirect costs charged during the report period.
11e.	Enter the Federal share of the amount in 11d.
Note:	If more than one rate was in effect during the period shown in item 8, attach a schedule showing the bases against which the different rates were applied, the respective rates, the calendar periods they were in effect, amounts of indirect expense charged to the project, and the Federal share of indirect expense charged to the project to date.

SF-269 Back (Rev 7-97)

[FR Doc. 98–8181 Filed 3–27–98; 8:45 am]
BILLING CODE 4510–30–C

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10546]

Notice of Proposed Individual Exemption To Amend and Replace Prohibited Transaction Exemption (PTE) 97–35 Involving Amalgamated Bank of New York (the Bank) Located in New York, NY

AGENCY: Pension and Welfare Benefits Administration, U.S. Department of Labor.

ACTION: Notice of proposed individual exemption to modify andreplace PTE 97–35.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed individual exemption which, if granted, would amend and replace PTE 97–35 (62 FR 41088, July 31, 1997). PTE 97–35 permits, among other things, the provision of banking services by the Bank to 22 employee benefit plans (the Plans) listed in the exemption, all of which are affiliated with the Union of Needletrades, Industrial and Textile Employees (UNITE), which is the majority and controlling shareholder in the Bank. PTE 97–35 is effective as of July 1, 1995, except for Plan investments in a fund maintained by the Bank designated as the LEI Fund, for which the effective date is January 3, 1998.

If granted, the proposed exemption would replace PTE 97–35 but would incorporate by reference the facts, representations and all of the conditions that are contained in the notice and the final exemption.

DATES: Written comments and requests for a public hearing should be received by the Department on or before May 29, 1998.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Application No. D–10546. The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Documents Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT: Ronald Willett, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 219–8881. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Department of a proposal to amend and replace PTE 97–35. PTE 97–35 provides relief, effective July 1, 1995, from the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code. The request to amend and replace PTE 97–35 was set forth in an exemption application dated December 4, 1997, filed on behalf of the Bank. The Department is proposing the exemption to amend and replace PTE 97–35 pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990).

The applicant requested modifications to sections IV(C) and IV(E) of the exemption. Section IV(C) of PTE 97–35 provides that:

Banking Services means (1) custodial, safekeeping, checking account, trustee services, and (2) investment management services involving (a) fixed income securities (either directly or through a collective investment fund maintained by the Bank), (b) the LongView Fund maintained by the Bank, and, (c) effective January 3, 1998, the LEI Fund maintained by the Bank.

The Bank has requested that this definition be modified to add another investment fund to those covered by PTE 97–35. The Banking Services covered by the exemption include investments by the Plans in the LongView Fund maintained by the Bank. As described in the Written Comments in PTE 97–35, the LongView Fund is a bank collective investment fund that is designed to mirror the S&P 500 Index. The LongView Fund is established and maintained pursuant to Revenue Ruling 81–100 and, accordingly, investments therein are restricted to tax qualified plans. The Bank represents that in response to expressions of interest from several investors, it has developed an additional fund, the LongView 500 Index Fund (the 500 Index Fund), designed to mirror the S&P 500 Index, for investment by tax-qualified plan investors and investors other than tax qualified plans. The Bank represents that except for the fact that the investors will include entities other than tax-qualified plans, the 500 Index Fund will be managed and restructured in a manner identical to the LongView Fund. The proposed addition of the 500 Index Fund to the definition of Banking Services under the exemption and the potential investments by the Plans in the 500 Index Fund have been analyzed and evaluated by U.S. Trust, which is the Independent Fiduciary representing the interests of the Plans under PTE 97–35. Consistent with the approach taken under PTE 97–35, the Bank directed an analysis of the 500 Index Fund by the commercial management consulting firm of Towers Perrin. Utilizing a report by Towers Perrin, the Independent Fiduciary determined that the addition of the 500 Index Fund as an available investment under the exemption would be in the best interests of the Plans. Accordingly, the Bank requests that Section IV(C) of the exemption be amended by adding the LongView 500 Index Fund to the definition of Banking Services.

Section IV(E) of PTE 97–35 identifies the 22 plans which are covered by the exemption. The Bank states that since PTE 97–35 was issued, a new employee benefit plan, the UNITE Staff Retirement Plan, ILGWU Unit (the New Plan), has expressed an interest in using the Bank's services under the exemption. The New Plan covers UNITE employees formerly employed by ILGWU prior to the merger which created UNITE. The Bank represents that the New Plan has no prior investment or other servicing relationship with the Bank but has expressed an interest in investing in the LongView Fund, which is among the Banking Services covered by the exemption. The Independent Fiduciary represents that it has reviewed the proposed provision of Banking Services to the New Plan by the Bank and the addition of the New Plan to those covered by the exemption. The Independent Fiduciary states that it has determined that inclusion of the New Plan under the exemption would be appropriate. Accordingly, the Bank requests that Section IV(E) of the exemption be amended to add the UNITE Staff Retirement Plan, ILGWU Unit to the list of plans covered by the exemption.

The proposed exemption would affect participants and beneficiaries of, and fiduciaries with respect to, plans affiliated with UNITE for which the Bank provides Banking Services.

Notice to Interested Persons

Notice of the proposed exemption will be mailed by first class mail to each of the Plans, including the New Plan, within 30 days of the publication of the notice of pendency in the **Federal Register**. The notice will contain a copy of the notice of proposed exemption as published in the **Federal Register** and a supplemental statement, as required pursuant to 29 CFR 2570.43(b)(2). The supplemental statement will inform interested persons of their right to comment on and/or to request a hearing with respect to the pending exemption. Written comments and hearing requests are due within 60 days of the publication of the proposed exemption in the **Federal Register**.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Employee Retirement Income Security Act of 1974, as amended (the Act), and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, a fiduciary to discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption can be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the Summary of Facts and Representations set forth in the notice of proposed exemption relating to PTE 97–35, as amended by this notice, accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to this exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within 30 days after the publication of this proposed exemption in the **Federal Register**. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting the requested exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990).

Section I—Transactions

The restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply, effective July 1, 1995, to—

(A) the provision of banking services (Banking Services, as defined in section IV(C)) by the Amalgamated Bank of New York (the Bank) to certain employee benefit plans (the Plans, as defined in section IV(E)), which are maintained on behalf of members of the former International Ladies Garment Workers Union (ILGWU), which merged on July 1, 1995 with the Amalgamated Clothing and Textile Workers Union to form the Union of Needletrades, Industrial and Textile Employees (UNITE);

(B) the purchase by the Plans of certificates of deposit (CDs) issued by the Bank; and

(C) the deposit of Plans' assets in money market or other deposit accounts established by the Bank;

provided that the applicable conditions of Section II and Section III are met.

Section II—Conditions

(A) The terms under which the Banking Services are provided by the Bank to the Plans, and those under which the Plans purchase CDs from the Bank or maintain deposit accounts with the Bank, are at least as favorable to the Plans as those which the Plans could obtain in arm's-length transactions with unrelated parties.

(B) The interests of each of the Plans with respect to the Bank's provision of Banking Services to the Plans, the purchase of CDs from the Bank by any of the Plans, and the deposit of Plan assets in deposit accounts established by the Bank, are represented by an Independent Fiduciary (as defined in section IV(D)).

(C) On a periodic basis, not less frequently than annually, an Authorizing Plan Fiduciary (as defined below in section IV(A)) with respect to each Plan authorizes the representation of the Plan's interests by the Independent Fiduciary and determines that the Banking Services and any CDs and depository accounts utilized by the Plan are necessary and appropriate for the establishment or operation of the Plan.

(D) With respect to the purchase by any of the Plans of certificates of deposit (CDs) issued by the Bank or the deposit of Plan assets in a money market account or other deposit account established at the Bank: (1) Such transaction complies with the conditions of section 408(b)(4) of the Act; (2) Any CD offered to the Plans by the Bank is also offered by the Bank in the ordinary course of its business with unrelated customers; and (3) Each CD purchased from the Bank by a Plan pays the maximum rate of interest for CDs of the same size and maturity being offered by the Bank to unrelated customers at the time of the transaction.

(E) The compensation received by the Bank for the provision of Banking Services to the Plan is not in excess of reasonable compensation within the meaning of section 408(b)(2) of the Act.

(F) Following the merger of the ILGWU into UNITE, the Independent Fiduciary made an initial written determination that (1) the Bank's provision of Banking Services to the Plans, (2) the deposit of Plan assets in depository accounts maintained by the Bank, and (3) the purchase by the Plans of CDs from the Bank, are in the best interests and protective of the participants and beneficiaries of each of the Plans.

(G) On a periodic basis, not less frequently than quarterly, the Bank provides the Independent Fiduciary with a written report (the Periodic Report) which includes the following items with respect to the period since the previous Periodic Report: (1) a listing of Banking Services provided to, all outstanding CDs purchased by, and deposit accounts maintained for each Plan; (2) a listing of all fees paid by the Plans to the Bank for the Banking Services, (3) the performance of the Bank with respect to all investment management services, (4) a description of any changes in the Banking Services, (5) an explanation of any problems experienced by the Bank in providing the Banking Services, (6) a description of any material adverse events affecting the Bank, and (7) any additional information requested by the Independent Fiduciary in the discharge of its obligations under this exemption.

(H) On a periodic basis, not less frequently than annually, the Independent Fiduciary reviews the Banking Services provided to each Plan by the Bank, the compensation received by the Bank for such services, any purchases by the Plan of CDs from the Bank, and any deposits of assets in deposit accounts maintained by the Bank, and makes the following written determinations:

(1) The continuation of the Bank's provision of Banking Services to the Plan for compensation is in the best interests and protective of the participants and beneficiaries of the Plan;

(2) The Bank is a solvent financial institution and has the capability to perform the services;

(3) The fees charged by the Bank are reasonable and appropriate;

(4) The services, the depository accounts, and the CDs are offered to the Plan on the same terms under which the Bank offers the services to unrelated Bank customers in the ordinary course of business; and

(5) Where the Banking Services include an investment management service, that the rate of return is not less favorable to the Plan than the rates on comparable investments involving unrelated parties.

(I) Copies of the Bank's periodic reports to the Independent Fiduciary are furnished to the Authorizing Plan Fiduciaries on a periodic basis, not less frequently than annually and not later than 90 days after the period to which they apply.

(J) The Independent Fiduciary is authorized to continue, amend, or terminate, without any penalty to any Plan (other than the payment of penalties required under federal or state banking regulations upon premature redemption of a CD), any arrangement involving: (1) the provision of Banking Services by the Bank to any of the Plans, (2) the deposit of Plan assets in a deposit account maintained by the Bank, or (3) any purchases by a Plan of CDs from the Bank;

(K) The Authorizing Plan Fiduciary may terminate, without penalty to the Plan (other than the payment of penalties required under federal or state banking regulations upon premature redemption of a CD), the Plan's participation in any arrangement involving: (1) the representation of the Plan's interests by the Independent Fiduciary, (2) the provision of Banking Services by the Bank to the Plan, (3) the deposit of Plan assets in a deposit account maintained by the Bank, or (4) the purchase by the Plan of CDs from the Bank.

Section III—Recordkeeping

(A) For a period of six years, the Bank and the Independent Fiduciary will maintain or cause to be maintained all written reports and other memoranda evidencing analyses and determinations made in satisfaction of conditions of this exemption, except that: (a) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of the Independent Fiduciary and the Bank, the records are lost or destroyed before the end of the six-year period; and (b) no party in interest other than the Bank and the Independent Fiduciary shall be subject to the civil penalty that may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975(a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (B) below;

(B)(1) Except as provided in section (2) of this paragraph (B) and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (A) of this Section III shall be unconditionally available at their customary location during normal business hours for inspection by: (a) any duly authorized employee or representative of the U.S. Department of Labor or the Internal Revenue Service, (b) any employer participating in the Plans or any duly authorized employee or representative of such employer, and (c) any participant or beneficiary of the Plans or any duly authorized representative of such participant or beneficiary.

(2) None of the persons described in subsections (b) and (c) of section (1) above shall be authorized to examine trade secrets of the Independent Fiduciary or the Bank, or any of their affiliates, or any commercial, financial, or other information that is privileged or confidential.

Section IV—Definitions

(A) *Authorizing Plan Fiduciary* means, with respect to each Plan, the board of trustees of the Plan or other appropriate plan fiduciary with discretionary authority to make decisions with respect to the investment of Plan assets;

(B) *Bank* means the Amalgamated Bank of New York;

(C) *Banking Services* means (1) custodial, safekeeping, checking account, trustee services, and (2) investment management services involving (a) fixed income securities (either directly or through a collective investment fund maintained by the Bank), (b) the LongView Fund maintained by the Bank, (c) the LongView 500 Index Fund, and (d) effective January 3, 1998, the LEI Fund maintained by the Bank.

(D) *Independent Fiduciary* means a person, within the meaning of section 3(9) of the Act, who (1) is not an affiliate of the Union of Needletrades, Industrial & Textile Employees (UNITE) and any successor organization thereto by merger, consolidation or otherwise, (2) is not an officer, director, employee or partner of UNITE, (3) is not an entity in which UNITE has an ownership interest, (4) has no relationship with the Bank other than as Independent Fiduciary under this exemption, and (5) has acknowledged in writing that it is acting as a fiduciary under the Act. No person may serve as an Independent Fiduciary for the Plans for any fiscal year in which the gross income (other than fixed, non-discretionary retirement income) received by such person (or any partnership or corporation of which such person is an officer, director, or ten percent or more partner or shareholder) from UNITE and the Plans for that fiscal year exceed five (5) percent of such person's annual gross income from all sources for the prior fiscal year. An affiliate of a person is any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person. The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual. Initially, the Independent Fiduciary is U.S. Trust Company of California, N.A.

(E) *Plans* means any of the following employee benefit plans, and their

successors by reason of merger, spin-off or otherwise:

International Ladies Garment Workers Union Nation Retirement Fund;
International Ladies Garment Workers Union Death Benefit Fund;
Health Fund of New York Coat, Suit, Dress, Rainwear & Allied Workers Union, ILGWU;
Health & Vacation Fund, Amalgamated Ladies Garment Cutters Union, Local 10;
ILGWU Eastern States Health & Welfare Fund; ILGWU Office, Clerical & Misc. Employee Retirement Fund;
ILGWU Retirement Fund, Local 102; Union Health Center Staff Retirement Fund;
Unity House 134 HREBIU Plan Fund;
Puerto Rican Health & Welfare Fund;
Health & Welfare Fund of Local 99, ILGWU;
Local 99 Exquisite Form Industries, Inc. Severance Fund;
Local 99 K-Mart Severance Fund;
Local 99 Kenwin Severance Fund;
Local 99 Lechters Severance Fund;
Local 99 Eleanor Shops Severance Fund;
Local 99 Monette Severance Fund;
Local 99 Moray, Inc. Severance Fund;
Local 99 Petri Stores, Inc. Severance Fund;
Local 99 Netco, Inc. Severance Fund;
Local 99 Misty Valley, Inc. Severance Fund;
Local 99 Norstan Apparel Shops, Inc. Severance Fund; and
UNITE Staff Retirement Plan, ILGWU Unit.

(F) *UNITE* means the Union of Needletrades, Industrial & Textile Employees and any successor organization thereto by merger, consolidation or otherwise.

EFFECTIVE DATE: This exemption will be effective as of July 1, 1995, except for: (1) Plan investments in the LEI Fund, for which the effective date will be January 3, 1998; (2) Plan investments in the LongView 500 Index Fund, for which the effective date will be the date on which the final amended exemption, if granted, is published in the **Federal Register**; and (3) transactions involving the UNITE Staff Retirement Plan, for which the effective date will be the date on which the final amended exemption, if granted, is published in the **Federal Register.**

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

For a more complete statement of the facts and representations supporting the Department's decision to grant PTE 97–35, refer to the proposed exemption and grant notice which are cited above.

Signed at Washington, D.C., this 25th day of March, 1998.

Ivan L. Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 98–8198 Filed 3–27–98; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA has submitted the following revised information collection to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This information collection is published to obtain comments from the public. It was originally published on January 15, 1998. No comments relating to the information collection were received.

DATES: Comments will be accepted until April 29, 1998.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collection of information:

OMB Number: 3133–0004.

Form Number: NCUA 5300.

Type of Review: Revision of a currently approved collection.

Title: Semiannual and Quarterly Financial and Statistical Report.

Description: The financial and statistical information collected is essential to NCUA in carrying out its responsibility for supervising federal credit unions. The information also enables NCUA to monitor all federally insured credit unions whose accounts are insured by the National Credit Union Share Insurance Fund.

Respondents: All credit unions.

Estimated No. of Respondents/ Recordkeepers: 11, 500.

Estimated Burden Hours Per Response: 8 hours.

Frequency of Response: Quarterly and semiannually.

Estimated Total Annual Burden Hours: 204,800.

Estimated Total Annual Cost: N/A.

By the National Credit Union Administration Board on March 19, 1998.

Becky Baker,

Secretary of the Board.

[FR Doc. 98–8175 Filed 3–27–98; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Cooperative Agreement for Administrative Assistance

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of one Cooperative Agreement to help assist its Literature Discipline in the fiscal control and administration of payments to readers of applications for literature fellowships. Responsibilities will entail administering approximately 90 payments to up to 90 readers, and preparing financial and final reports. Those interested in receiving the Solicitation should reference Program Solicitation PS 98–04 in their written request and include two (2) self-addressed labels. Verbal requests for the Solicitation will not be honored.

DATES: Program Solicitation PS 98–04 is scheduled for release approximately April 17, 1998 with proposals due on May 18, 1998.

ADDRESSES: Requests for the Solicitation should be addressed to the National

Endowment for the Arts, Grants and Contracts Office, Room 618, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506

FOR FURTHER INFORMATION CONTACT: William Hummel, Grants and Contracts Office, National Endowment for the Arts, Room 618, 1100 Pennsylvania Ave., NW., Washington, D.C. 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 98–8232 Filed 3–27–98; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U. S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. The title of the information collection:
   NRC Form 4, "Cumulative Occupational Exposure History"
   NRC Form 5, "Occupational Exposure Record for a Monitoring Period."
2. Current OMB approval numbers: 3150–0005 and 3150–0006.
3. How often the collection is required: NRC Form 4 is generated for each individual who is likely to receive, in one year, an occupational dose requiring monitoring as described § 20.1502. It is maintained by the licensee until the Commission terminates the license. It is not submitted to the NRC. NRC Form 5 is prepared by all NRC licensees and is submitted only by those licensees listed in 10 CFR 20.2206(a) to the NRC annually.
4. Who is required or asked to report: NRC licensees listed in 10 CFR 20.2206(a).
5. The number of annual respondents:
   NRC Form 4—300 (109 reactor sites and 191 materials licensees)
   NRC Form 5—5,986 licensees maintain records —300 (109 reactor sites and 191 materials licensees) are required to submit reports in accordance with 10 CFR 20.2206(a).
6. The number of hours needed annually to complete the requirement or request:
   NRC Form 4—4,469 hours or an average of 0.2 hours per response.
   NRC Form 5—64,104 hours—52,104 recordkeeping hours (an average of 0.33 hours per record × 77 individuals × 5,986 licensees) and 12,000 reporting hours in accordance with 10 CFR 20.2206(a) (an average of 40 hours per licensee × 300 licensees).
7. Abstract: NRC Form 4 is used to record the summary of an individual's cumulative occupational radiation dose for the current year to ensure that dose does not exceed regulatory limits. NRC Form 5 is used to record and report the results of individual monitoring for occupational dose from radiation during a one-year period to ensure regulatory compliance with annual dose limits.

Submit, by May 29, 1998, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft 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 about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 F33, Washington, DC, 20555–0001, or by telephone at 301–415–7233, or by Internet electronic mail at BJS1@NRC.GOV.

Dated at Rockville, Maryland, this 24th day of March 1998.

For the Nuclear Regulatory Commission.

Beth C. St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 98–8188 Filed 3–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–410]

Order Approving Application Regarding Restructuring of New York State Electric & Gas Corporation by Establishment of a Holding Company Affecting License No. NPF–69, Nine Mile Point Nuclear Station, Unit No. 2

I

New York State Electric & Gas Corporation (NYSEG) is licensed by the U.S. Nuclear Regulatory Commission (NRC or Commission) to own and possess an 18-percent interest in Nine Mile Point Nuclear Station, Unit 2 (NMP2), under Facility Operating License No. NPF–69, issued by the Commission on July 2, 1987. In addition to NYSEG, the other owners who may possess, but not operate, NMP2 are Long Island Lighting Company with an 18-percent interest, Rochester Gas and Electric Corporation with a 14-percent interest, and Central Hudson Gas & Electric Corporation with a 9-percent interest. Niagara Mohawk Power Corporation (NMPC) owns a 41-percent interest in NMP2, is authorized to act as agent for the other owners, and has exclusive responsibility and control over the operation and maintenance of NMP2. NMP2 is located in the town of Scriba, Oswego County, New York.

II

Under cover of a letter dated September 18, 1997, from its counsel, NYSEG submitted an application for consent by the Commission, pursuant to 10 CFR 50.80, regarding a proposed corporate restructuring action that would result in the indirect transfer of the operating license for NMP2 to the extent it is held by NYSEG. As a result of the proposed restructuring, NYSEG would establish a new holding company and become a wholly owned subsidiary of the new holding company, not yet named, to be created as a New York State corporation in accordance with an executed "Agreement Concerning the Competitive Rate and Restructuring Plan of New York State Electric & Gas Corporation" (Settlement Agreement) forwarded as enclosures to supplemental letters to the application, dated October 20 and 27, 1997. Under

cover of a letter dated January 6, 1998, counsel for NYSEG forwarded copies of an order by the Federal Energy Regulatory Commission authorizing the corporate restructuring, subject to certain specified conditions, and finding that the proposed restructuring will not adversely affect competition or have an anticompetitive effect. Similarly, under cover of a letter dated February 9, 1998, counsel for NYSEG forwarded copies of the order, which was issued and effective January 27, 1998, by the State of New York Public Service Commission (NYPSC), adopting the terms of the Settlement Agreement, subject to certain modifications and conditions generally involving retail rate matters, and clarifying that NYSEG will have a reasonable opportunity to recover all prudently incurred NMP2 costs, subject to the duty of the NYPSC to set just and reasonable rates.

According to the application, the outstanding shares of NYSEG's common stock (other than shares for which appraisal rights are properly exercised) would be exchanged on a share-for-share basis for common stock of the holding company, such that the holding company will own all of the outstanding common stock of NYSEG. Under this restructuring, NYSEG would divest its interest in coal-fired power plants but would continue to be an "electric utility" as defined in 10 CFR 50.2 engaged in the transmission, distribution and, in the case of NMP2 and hydroelectric facilities, the generation of electricity. NYSEG would continue to be a licensee of NMP2, and no direct transfer of the operating license or interests in the station would result from the proposed restructuring. The transaction would not involve any change to either the management organization or technical personnel of NMPC, which has exclusive responsibility under the operating license for operating and maintaining NMP2 and which is not involved in the proposed restructuring.

Notice of this application for approval was published in the **Federal Register** on December 5, 1997 (62 FR 64407), and an Environmental Assessment and Finding of No Significant Impact was published in the **Federal Register** on January 16, 1998 (63 FR 2701).

Under 10 CFR 50.80, no license shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. Upon review of the information submitted in the application of September 18, 1997, as supplemented by submittals dated October 20 and 27, 1997, and January 6 and February 9, 1998, the NRC staff has determined that the restructuring of NYSEG by establishment of a holding company will not affect the qualifications of NYSEG as a holder of the license, and that the transfer of control of the license for NMP2, to the extent effected by the restructuring, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission, subject to the conditions set forth herein. These findings are supported by a safety evaluation dated March 19, 1998.

III

Accordingly, pursuant to Sections 161b, 161i, 161o, and 184 of the Atomic Energy Act of 1954, as amended, 42 USC §§ 2201(b), 2201(i), 2201(o), and 2234, and 10 CFR 50.80, *it is hereby ordered* that the Commission approves the application regarding the proposed restructuring of NYSEG by the establishment of a holding company, subject to the following: (1) NYSEG shall inform the Director of the Office of Nuclear Reactor Regulation, 60 days prior to a transfer (excluding grants of security interests or liens) during any twelve month period from NYSEG to the holding company, or any direct or indirect subsidiary of the holding company, of facilities for the production, transmission, or distribution of electric energy (other than the transfer of NYSEG's seven coal-fired power plants) having a depreciated book value exceeding 10 percent (10%) of NYSEG's consolidated net utility plant, as recorded on NYSEG's books of account, and (2) should the restructuring of NYSEG not be completed by March 19, 1999, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

This Order is effective upon issuance.

IV

By April 29, 1998, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how that interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

If a hearing is to be held, the Commission will issue an order designating the time and place of the hearing.

The issue to be considered at any such hearing shall be whether this Order should be sustained.

Any request for a hearing 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 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays, by the above date. Copies should be also sent to the Office of the General Counsel, and to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Mr. Sherwood J. Rafferty, Senior Vice President and Chief Financial Officer, New York State Electric & Gas Corporation, P.O. Box 3287, Ithaca, NY 14852.

For further details with respect to this Order, see the application for approval dated September 18, 1997, as supplemented by letters dated October 20 and 27, 1997, and January 6 and February 9, 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 Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Dated at Rockville, Maryland, this 19th day of March 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–8187 Filed 3–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Proposed Generic Communication; Augmented Inspection of Pressurized-Water Reactor Class 1 High Pressure Safety Injection Piping (M99226)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of opportunity for public comment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is proposing to issue a generic letter to all holders of operating licenses for pressurized-water reactors, except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel, to (1) identify a discrepancy in the American Society of Mechanical Engineers (ASME) Code inspection requirements regarding the inservice inspection of those portions of the high-pressure safety injection system piping designated as ASME Code Class 1 with

nominal pipe sizes between 4 inches and 1½ inches, inclusive, (2) emphasize the need for addressees to maintain the integrity of this reactor coolant pressure boundary piping in accordance with the provisions of their current facility licensing bases, and (3) request that addressees report to the NRC their previous actions for verifying the integrity of the subject piping and their plans regarding future inspections.

The proposed generic letter has been endorsed by the Committee to Review Generic Requirements (CRGR). Relevant information that was sent to the CRGR will be placed in the NRC Public Document Room.

The NRC is seeking comment from interested parties regarding both the technical and regulatory aspects of the proposed generic letter presented under the Supplementary Information heading. The NRC will consider comments received from interested parties in the final evaluation of the proposed generic letter. The NRC's final evaluation will include a review of the technical position and, as appropriate, an analysis of the value/impact on licensees. Should this generic letter be issued by the NRC, it will become available for public inspection in the NRC Public Document Room.

DATES: Comment period expires April 29, 1998. Comments submitted after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for comments received on or before this date.

ADDRESSEES: Submit written comments to Chief, Rules and Directives Branch, Division of Administrative Services, U.S. Nuclear Regulatory Commission, Mail Stop T6-D59, Washington, DC 20555–0001. Written comments may also be delivered to 11545 Rockville Pike, Rockville, Maryland, between 7:45 am to 4:15 pm, Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, 2120 L Street, N.W. (Lower Level), Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Matthew Mitchell, (301) 415–3303.

SUPPLEMENTARY INFORMATION:

NRC Generic Letter 98–XX: Augmented Inspection of Pressurized-Water Reactor Class 1 High-Pressure Safety Injection Piping

Addressees

All holders of operating licenses for pressurized-water reactors (PWRs), except those who have permanently ceased operations and have certified that fuel has been permanently removed from the reactor vessel.

Purpose

The U.S. Nuclear Regulatory Commission (NRC) is issuing this generic letter to:

(1) identify a discrepancy in the American Society of Mechanical Engineers (ASME) Code inspection requirements regarding the inservice inspection (ISI) of those portions of the high-pressure safety injection (HPSI) system piping designated as ASME Code Class 1 with nominal pipe sizes (NPS) between 4 inches and 1½ inches, inclusive. Current ASME Code Section XI requirements only mandate a surface examination for the subject piping while similarly sized sections in the Class 2 portion of the HPSI system are required to have both surface and volumetric examinations.

(2) emphasize the need for addressees to maintain the integrity of this reactor coolant pressure boundary piping in accordance with the provisions of their current licensing basis, particularly given known thermal fatigue degradation mechanisms, and

(3) request addressees report to the NRC their previous actions for verifying the integrity of the subject piping and their plans regarding future inspections.

Background

This generic letter addresses concerns which have arisen based on recent domestic and foreign reactor experience with thermal fatigue degradation in reactor coolant system piping. On April 22, 1997, an event occurred at Oconee 2, a Babcock and Wilcox-designed PWR, which involved the unit being shut down due to cracking and leakage from a weld location in the 2½-inch (NPS 2½), Class 1 portion of a combination makeup and high-pressure injection line (equivalent to a portion of the HPSI system as designated in the ASME Code). Upon metallurgical examination of the weld, the licensee determined that the crack consisted of a 360° inside surface flaw with minimum depth of 30 percent through-wall, with the cracking having penetrated completely through-wall over an arc length of 77°. The licensee attributed the cracking to thermal cycling and flow-induced vibration. Also, recent experience at the Dampierre 1 facility in France has indicated that thermal fatigue degradation (in a safety injection line) may, under certain conditions, initiate and propagate through-wall in a time period less than one ASME Code inspection interval. Additional details on these events are found in NRC Information Notice 97–46.

Similar piping failures have also been recorded at other facilities in the United States (Crystal River 3, Farley 2) and detailed information on these events is available in the references to this GL. The cracking observed at Crystal River 3 (a Babcock and Wilcox-designed PWR) also occurred in a 2½-inch, Class 1 makeup/HPSI line and was attributed to thermal fatigue, much like the Oconee event. The piping failure at Farley 2 (a Westinghouse-designed PWR) also occurred in a small-diameter high-pressure injection line, but was attributed to thermal fatigue caused by relatively cold water leaking through a closed globe valve in a boron injection tank bypass line. Additional foreign experience has also found active degradation in small-diameter Class 1 lines.

As a result of the Oconee 2 event and license renewal issues, the staff reexamined the requirements given in Section XI of the ASME Code for ISI of HPSI piping, using the 1989 Edition and the 1995 Edition for reference. The staff examined the requirements given in both Subsection IWB (for Class 1 piping) and Subsection IWC (for Class 2 piping). The requirements for the Class 2 portions of the HPSI system are delineated in Table IWC–2500–1, Examination Category C–F–1, "Pressure Retaining Welds in Austenitic Stainless Steel or High Alloy Piping," as amended by the exemption criteria of IWC–1221. In combination, these provisions require that Class 2 HPSI piping down to NPS 1½ receive both a volumetric and a surface examination as part of a facility ISI program.

The requirements for the Class 1 portions of the HPSI system are delineated in Table IWB–2500–1, Examination Category B–J, "Pressure Retaining Welds in Piping," as amended by the exemption criteria of IWB–1220. Table-IWB–2500–1 requires only that a surface examination be performed for Class 1 piping less than NPS 4, with the one exemption provision applicable to the subject of this generic letter excluding piping of NPS 1 and smaller from examination.

Therefore, for the HPSI system, the inspection criteria for Class 2 piping between NPS 4 and NPS 1½, inclusive, are more comprehensive than those for Class 1 piping of the same size range.

As a result of these findings, the staff published in the **Federal Register** a proposed rule with the intent of amending the requirements of 10 CFR 50.55a (see 62 FR 63892). In proposed 10 CFR 50.55a(b)(2)(xv), the staff reconciled the differences between Class 1 and Class 2 inspection requirements noted above by requiring volumetric examination of the Class 1 HPSI piping welds. The Rule change would require

licensees to implement these volumetric examinations on a schedule consistent with their current ISI program requirements.

Discussion

The NRC is issuing this generic letter to alert addressees to the discrepancy noted above between Class 1 and Class 2 HPSI ISI requirements and to request that addressees report to the NRC their previous actions for verifying the integrity of the subject piping and their plans regarding future inspection activities. Requirements to ensure the integrity of the reactor coolant pressure boundary are broadly incorporated in the current licensing basis of each reactor facility and General Design Criterion 14 of Appendix A to 10 CFR Part 50, which explicitly states that the reactor coolant pressure boundary must be "designed, fabricated, erected, and tested to have an extremely low probability of abnormal leakage, of rapidly propagating failure, and of gross rupture." Effective inservice inspection activities to monitor known degradation mechanisms and to identify potential new sources of degradation are an integral element in maintaining an extremely low probability of failure.

The staff's concern regarding the implementation of an effective ISI program stems from the nature of the degradation previously observed in some sections of small-diameter, Class 1 HPSI system piping. The initiation and propagation of cracking due to thermal fatigue is directly related to the magnitude of the cyclic thermal stress range. Since thermal stress cycling in these lines is due to changes in the temperature of the fluid in contact with the pipe wall, the magnitude of the thermal stress cycles may be largest at the inside diameter (ID) of the pipe. Therefore an effective ISI program should include a volumetric (ultrasonic) evaluation to be able to detect cracking at the ID before the cracking propagates through-wall. This indicates that the current ASME Code ISI requirements (surface examination only) for the Class 1 portion of this piping are insufficient. In addition, after considering the experience at Dampierre 1 in France (see Information Notice 97–46), requiring volumetric inspections (consistent with the quality standards of Appendix VIII to Section XI) to be conducted on a frequency consistent with the facility's normal ASME Code Section XI ISI program may not be sufficient to ensure reactor coolant pressure boundary integrity, especially if no effective volumetric examination has been conducted within the last ten years.

The staff notes that allowing for the potential failure of the Class 1 portion of a HPSI line, while within a facility's design basis, would unnecessarily challenge the facility's ability to mitigate such an accident. Failure of an unisolable portion of the Class 1 HPSI line could result in a small-break loss-of-coolant accident (SBLOCA) while directly affecting the HPSI system, which is designed to mitigate a SBLOCA. For these reasons, it is the staff's conclusion that volumetric examination of the Class 1 portions of PWR HPSI systems should be performed, at a minimum, consistent with the ASME Code's ISI requirements for components of equivalent significance to reactor safety.

The staff has also formally identified the issue of this discrepancy between Class 1 and Class 2 ISI requirements to the ASME Code via a letter to the Chairman of the ASME Section XI Subcommittee, dated July 18, 1997.

Regulatory Analysis

Under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f), this generic letter transmits an information request for the purpose of verifying compliance with the applicable existing regulatory requirements. Specifically, the requested information will enable the staff to determine whether or not the Class 1 sections of PWR HPSI systems are being maintained in accordance with 10 CFR Part 50, Appendix A, Criterion 14, or similar requirements in the licensing bases for these facilities.

Required Information

Within 90 days of the date of this generic letter, each addressee is required to provide a written report that includes the following information for its facility:

(1) A discussion of the program, if any, in place at the facility to perform effective volumetric examinations on those Class 1 portions of the HPSI system which would be subject to the inspection scope of ASME Code Section XI. This discussion should include information on the qualification of the inspection procedure, the frequency of inspection, the date of the last inspection, and the scope of the locations inspected. In addition, the same information should be provided for *any* inspection that has been (or will be) performed on the subject piping but not as part of a defined inspection program.

(2) If the addressee currently has no program in place to volumetrically inspect these portions of the HPSI system, given the potential for the existence of an active degradation mechanism, a discussion of any plans for establishing such a program.

Addressees shall submit the required written reports, pursuant to 10 CFR 50.4, to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, D.C. 20555–0001, signed under oath or affirmation under the provisions of Section 182a of the Atomic Energy Act of 1954, as amended, and 10 CFR 50.54(f). In addition, addressees should submit a copy of their respective report to the appropriate regional administrator.

Backfit Discussion

This generic letter has been promulgated only as a request for information. No backfit is either intended or approved in the context of issuance of the generic letter. Therefore, the staff has not performed a backfit analysis.

Related Generic Communications

NRC Information Notice 82–09, "Cracking in Piping of Makeup Coolant Lines at B&W Plants," dated March 31, 1982.

NRC Generic Letter 85–20, "Resolution of Generic Issue 69: High Pressure Injection/Makeup Nozzle Cracking in Babcock and Wilcox Plants," dated November 11, 1985.

NRC Bulletin No. 88–08, "Thermal Stresses in Piping Connected to Reactor Coolant Systems," dated June 22, 1988.

NRC Bulletin No. 88–08, Supplement 1, "Thermal Stresses in Piping Connected to Reactor Coolant Systems," dated June 24, 1988.

NRC Bulletin No. 88–08, Supplement 2, "Thermal Stresses in Piping Connected to Reactor Coolant Systems," dated August 4, 1988.

NRC Bulletin No. 88–08, Supplement 3, "Thermal Stresses in Piping Connected to Reactor Coolant Systems," dated April 11, 1989.

NRC Information Notice 97–46, "Unisolable Crack in High-Pressure Injection Piping," dated July 9, 1997.

Dated at Rockville, Maryland, this 25th day of March 1998.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Acting Director, Division of Reactor Program Management, Office of Nuclear Reactor Regulation

[FR Doc. 98–8189 Filed 3–27–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee Meeting on Human Factors; Notice of Meeting

The ACRS Subcommittee on Human Factors will hold a meeting on April 17, 1998, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Friday, April 17, 1998—8:30 a.m. until the conclusion of business

The Subcommittee will review the latest version of the Human Performance and Reliability Plan, and associated activities. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Noel F. Dudley (telephone 301/415–6888) between 7:30 a.m. and 4:15 p.m. (EST). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: March 24, 1998.

Medhat M. El-Zeftawy,

Acting Chief, Nuclear Reactors Branch.

[FR Doc. 98–8186 Filed 3–27–98; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Federal Salary Council

AGENCY: Office of Personnel Management.

ACTION: Notice of meetings.

SUMMARY: According to the provisions of section 10 of the Federal Advisory Committee Act (P.L. 92–463), notice is hereby given that the fifty-third and fifty-fourth meetings of the Federal Salary Council will be held at the times and places shown below. At the meeting in the morning of April 16, 1998, the Council will continue discussing issues relating to locality-based comparability payments authorized by the Federal Employees Pay Comparability Act of 1990 (FEPCA). This will be the fifty-third meeting of the Federal Salary Council.

In the afternoon, the Federal Salary Council will meet with the President's Pay Agent and the Bureau of Labor Statistics (BLS) to discuss the use of BLS salary surveys for future locality pay adjustments. This will be the fifty-fourth meeting of the Federal Salary Council. Both meetings are open to the public.

DATES: April 16, 1998, 10:00 a.m., Room 7310; April 16, 1998, 1:00 p.m., Room 1350.

ADDRESSES: Office of Personnel Management, 1900 E Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth O'Donnell, Chief, Salary and Wage Systems Division, Office Of Personnel Management, 1900 E Street NW., Room 7H31, Washington, DC 20415–0001. Telephone number: (202) 606–2838.

For the President's Pay Agent.

Janice R. Lachance,

Director.

[FR Doc. 98–8203 Filed 3–27–98; 8:45 am]

BILLING CODE 6325–01–P

POSTAL SERVICE

Sunshine Act Meeting

TIMES AND DATES: 11:00 a.m., Monday, April 6, 1998; 8:30 a.m., Tuesday, April 7, 1998.

PLACE: Washington, D.C., at U.S. Postal Service Headquarters, 475 L'Enfant Plaza, S.W., in the Benjamin Franklin Room.

STATUS: April 6 (Closed); April 7 (Open).

MATTERS TO BE CONSIDERED:

Monday, April 6—11:00 a.m. (Closed)

1. Personnel Matters.
2. Docket No. MC96–1, Experimental First-Class and Priority Mail Small Parcel Automation Rate (Parcel Barcode Experiment).
3. Status Report on Rate Case R97–1.
4. Performance Measurement.
5. Tray Management System.

Tuesday, April 7—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, March 2–3, 1998.
2. Remarks of the Postmaster General/Chief Executive Officer.
3. Consideration of Amendments to BOG Bylaws.
4. SemiPostal Breast Cancer Stamp.
5. Report on the Diversity Study.
6. Capital Investments.

a. Spokane, Washington, Processing and Distribution Center.

b. Inspector General Office Space—Modification Request.

7. Tentative Agenda for the May 4–5, 1998, meeting in Washington, D.C.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Koerber, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260–1000. Telephone (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–8456 Filed 3–26–98; 2:57 pm]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23073; File No. 812–10920]

The Guardian Insurance and Annuity Company, Inc. et al.

March 23, 1998.

AGENCY: Securities and Exchange Commission (the "SEC" or the "Commission").

ACTION: Notice of application for an order under Section 6(c) of the Investment Company Act of 1940 ("1940 Act") granting exemptive relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e–2(b)(15) and 6e–3(T)(6)(15) thereunder.

SUMMARY OF APPLICATION: Applicants seek an order to permit shares of The Guardian Cash Fund, Inc. and the other investment company applicants listed below ("Existing Funds") and any other investment company that is designed to fund insurance products and for which

Guardian Investor Services Corporation or Guardian Baillie Gifford Limited, or any of their affiliates, may serve as investment adviser, administrator, manager, principal underwriter or sponsor ("Future Funds," together with Existing Funds, "Funds") to be sold to and held by: (a) variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies ("Participating Insurance Companies"); and (b) qualified pension and retirement plans outside the separate account context ("Qualified Plans").

APPLICANTS: The Guardian Insurance & Annuity Company, Inc. ("GIAC"), The Guardian Separate Account B ("Account B"), The Guardian Separate Account C ("Account C"), The Guardian Separate Account K ("Account K"), The Guardian Separate Account M ("Account M") (Accounts B, C, K and M together, the "Accounts"), The Guardian Cash Fund, Inc., The Guardian Bond Fund, Inc., The Guardian Stock Fund, Inc., GIAC Funds, Inc., Gabelli Capital Series Funds, Inc., Guardian Investor Services Corporation ("GISC"), and Guardian Baillie Gifford Limited ("GBGL").

FILING DATE: The application was filed on December 23, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 17, 1998, and should be accompanied by proof of service on the Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Richard T. Potter, Jr., Esq., The Guardian Insurance & Annuity Company, Inc., 201 Park Avenue, New York, New York 10003.

FOR FURTHER INFORMATION CONTACT: Joyce Merrick Pickholz, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Public Reference Branch of the SEC, 450 Fifth Street, N.W., Washington, D.C. (tel. (202) 942–8090).

Applicants' Representations

1. GIAC, a wholly owned subsidiary of The Guardian Life Insurance Company of America, is a stock life insurance company organized under the laws of Delaware.

2. The Accounts are separate investment accounts established by GIAC to fund variable life insurance contracts. Each Account is registered under the 1940 Act as a unit investment trust and has several investment divisions each of which invests in a designated investment portfolio of an Existing Fund or other underlying fund or trust.

3. The Existing Funds are Maryland corporations registered under the 1940 Act as open-end diversified management investment companies. The Guardian Cash Fund, Inc., The Guardian Bond Fund, Inc. and The Guardian Stock Fund, Inc. each has authorized capital stock that presently consists of one class of stock, but in the future may create one or more additional classes of stock, each corresponding to a portfolio of securities. GIAC Funds, Inc. is a diversified series company that presently consists of three investment portfolios: The Guardian Small Cap Stock Fund, Baillie Gifford International Fund and Baillie Gifford Emerging Markets Fund Gabelli Capital Series Funds, Inc. is also a diversified series company that presently has one investment portfolio, the Gabelli Capital Asset Fund.

4. GISC is the investment adviser for The Guardian Cash Fund, Inc., The Guardian Bond Fund, Inc., The Guardian Stock Fund, Inc. and the Guardian Small Cap Fund. GISC is a wholly owned subsidiary of GIAC and is registered with the Commission as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act").

5. GBGL, an investment management company registered under the laws of Scotland, serves as the investment manager for Baillie Gifford International Fund and Baillie Gifford Emerging Markets Fund. GBGL was formed as a joint venture between GIAC and Baillie Gifford Overseas Limited ("BG Overseas"). GIAC owns 51% and BG Overseas owns 49% of the voting shares of GBGL. GB Overseas is an investment management company incorporated in Scotland. Both GB Overseas and GBGL are registered with the Commission as investment advisers under the Advisers Act.

6. The Existing Funds currently offer their shares to GIAC as the investment vehicle for its separate accounts supporting variable annuity and variable life insurance contracts ("Variable Contracts"). The Existing Funds intends to offer their shares to unaffiliated insurance companies as the investment vehicle for their separate accounts supporting variable annuity and variable life insurance contracts ("Participating Separate Accounts").

7. Each Participating Insurance Company has or will have the legal obligation of satisfying all applicable requirements under both state and federal law and each has or will enter into a participation agreement with an Existing Fund on behalf of its Participating Separate Account. The Existing Funds will offer shares to the Participating Separate Accounts and fulfills any conditions that the Commission may impose upon granting the order requested in the application.

8. The Funds also wish to increase their respective asset bases by selling shares to qualified pension and retirement plans ("Qualified Plans"). Existing Fund shares sold to the Qualified Plans would be held by the Trustee of said Plans as required by Section 403(a) of the Employee retirement and Security Act ("ERISA"). ERISA does not require pass-through voting to be provided to participants in Qualified Plans.

Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust ("UIT"), Rule 6e–2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The relief provided by Rule 6e–2 is available to a separate account's investment adviser, principal underwriter, and depositor. The exemptions provided under Rule 6e–2(b)(15) are available only where the management investment company underlying the UIT offers its shares "exclusively to variable life insurance separate accounts of the life insurer, or of any affiliated life insurance company." The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts is referred to as "mixing funding." The use of a common investment company as the underlying investment medium for separate accounts of unaffiliated

insurance companies is referred to as "shared funding." The relief provided under Rule 6e–2(b)(15) is not applicable to a scheduled premium variable life insurance separate account that owns shares of an underlying fund where the underlying fund offers its shares to a variable annuity separate account of the same company or of any other affiliated or unaffiliated life insurance company. Therefore, Rule 6e–2(b)(15) does not provide exemptive relief for either mixed funding or shared funding.

2. Applicants state that Rule 6e–2(b)(15) does not contemplate that shares of the underlying fund might also be sold to Qualified Plans. The use of a common management investment company as the underlying investment medium for variable annuity and variable life separate accounts of affiliated and unaffiliated insurance companies and Qualified Plans is referred to as "extended mixed and shared funding."

3. In connection with flexible premium variable life insurance contacts issued through a separate account registered under the 1940 Act as a UIT, Rule 6e–3(T)(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions provided under Rule 6e–3(T)(b)(15) are available only where all the assets of the separate account consist of the shares of one or more registered management investment companies which offer their shares "exclusively to separate accounts of the life insurer, or of any affiliated life insurance company, offering either scheduled or flexible contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company." Therefore, Rule 6e–3(T) permits mixed funding, but does not permits shares funding or extended mixed and shares funding.

4. Applicants state that changes in the tax law have created the opportunity for a Fund to increase its asset base through the sale of its shares to Qualified Plans. Applicants state that Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the assets underlying Variable Contracts. Specifically, the Code provides the Variable Contracts will not be treated as annuity contracts or life insurance contracts for any period in writing the underlying assets are not, in accordance with regulations prescribed by the Treasury Department, adequately diversified. On March 2, 1989, the Treasury Department issued regulations which established diversification requirements for the investment portfolios underlying Variable Contracts (Treas. Reg. § 1.817–5 (1989), the "Treasury Regulations"). The Treasury Regulations provide that, to meet the diversification requirements, all of the beneficial interests in the investment company must be held by the segregated asset accounts of one or more insurance companies. The Treasury Regulations, however, contain certain exceptions to this requirement, one of which allows shares in an investment company to be held by the trustee of a qualified pension or retirement plan without adversely affecting the status of the investment company as an adequately diversified underlying investment for Variable Contracts issued through such segregated accounts.

5. Applicants state that the promulgation of Rules 63–2 and 6e–3(T) under the 1940 Act preceded the issuance of these Treasury Regulations. Applicants assert that, given the then current tax law, the sale of shares of the same investment company to both separate accounts and Qualified Plans could not have been envisioned at the time of the adoption of Rules 6e–2(b)(15) and 6e–3(T)(b)(15).

6. Applicants therefore request relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act, and Rules 6e–2(b)(15) and 6e–3(T)(b)(15) thereunder to the extent necessary to permit shares of the Funds to be offered and sold to Qualified Plans and to variable annuity and variable life separate accounts in connection with both mixed and shared funding and extended mixed and shared funding.

7. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser to or principal underwriter for any registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9(a)(1) or (2). Rules 6e–2(b)(15)(i) and (ii) and 6e–3(T)(b)(15)(i) and (ii) provide exemptions from Section 9(a) under certain circumstances, subject to the limitations on mixed and shared funding. These exemptions limit the disqualification to affiliated individuals or companies that participate directly in the management or administration of the underlying investment company.

8. Applicants state that the partial relief from Section 9(a) found in Rules 6e–2(b)(15) and 6e–3(T)(b)(15), in effect, limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of the Section. Applicants state that those 1940 Act rules recognize that it is not necessary to apply the provisions of Section 9(a) to the many individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies within that organization. Applicants note that neither the Participating Insurance Companies nor the Qualified Plans are expected to play any role in the management or administration of the Funds. Therefore, Applicants assert, applying the restrictions of Section 9(a) serves no regulatory purpose. The application states that the relief requested should not be affected by the proposed sale of shares of the Funds to Qualified Plans because the Plans are not investment companies and are not, therefore, subject to Section 9(a) and it is not anticipated that a Qualified Plan would be an affiliated person of a Fund by virtue of its shareholders.

9. Rules 6e–2(b)(15)(iii) and 6e–3(T)(b)(15)(iii) under the 1940 Act assume the existence of a pass-through voting requirement with respect to management investment company shares held by a separate account. The application states that the Participating Insurance Companies will provide pass-through voting privileges to all contractowners so long as the Commission interprets the 1940 Act to require such privileges.

10. Rules 6e–2(b)(15)(iii)(A) and 6e–3(T)(b)(15)(iii)(A) provide that the insurance company may disregard voting instructions of its contractowners with respect to the investments of an underlying fund, or any contract between a fund and its investment adviser, when required to do so by an insurance regulatory authority. Also, Rules 6e–2(b)(15)(iii)(B) and 6e–3(T)(b)(15)(iii)(A)(*2*) provide that the insurance company may disregard voting instructions of its contractowners if the contractowners initiate any change in the company's investment policies, principal underwriter, or any investment adviser, provided that disregarding such voting instructions is reasonable and subject to the other provisions of paragraphs (b)(15)(ii) and (b)(7)(ii)(B) and (C) of each rule.

11. Applicants represent that the sale of Fund shares to Qualified Plans does not affect the relief requested in this regard. Shares of the Funds sold to Qualified Plans would be held by the trustees of such Qualified Plans as required by Section 403(a) of ERISA. Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (a) when the Qualified Plan expressly provides that the trustee(s) is (are) subject to the direction of a named

fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the Qualified Plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the Qualified Plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, Qualified Plan trustees have the exclusive authority and responsibility for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in such Qualified Plans. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with such Qualified Plans. However, Applicants state that some Qualified Plans may provide for the trustee, an investment adviser or other named fiduciary to exercise voting rights in accordance with instructions from participants. Where a Qualified Plan provides participants with the right to give voting instructions, the Applicants see no reason why such participants would vote in a manner that would disadvantage variable contract holders. Applicants submit that the purchase of Fund shares by Qualified Plans that provide voting rights does not present any complications not otherwise occasioned by mixed or shared funding.

12. Applicants state that no increased conflicts of interest would be present by the granting of the requested relief. Applicants assert that shared funding does not present any issues that do not already exist where a single insurance company is licensed to do business in several, or all, states. Applicants note that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one insurance company is domiciled would require action that is inconsistent with the requirements of insurance regulators in other states in which other insurance companies are domiciled. Applicants submit that the fact that a single insurer and its affiliates offer their insurance products in several states does not create a significantly different or enlarged problem.

13. Applicants further submit that affiliation does not reduce the potential for differences among state regulatory requirements. In any event, the conditions set forth below are designed to safeguard against any adverse effects that these differences may produce. If a particular state insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Fund.

14. Applicants also state that affiliation does not eliminate the potential, if any exists, for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by owners of the Variable Contracts. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard contractowner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of a Fund, to withdraw its investment in that Fund. No charge or penalty will be imposed as a result of such withdrawal.

15. Applicants state that there is no reason why the investment policies of a Fund would or should be materially different from what those policies would or should be if that Fund served as a funding medium for only variable annuity or only variable life insurance contracts. Moreover, Applicants represent that the Funds will not be managed to favor or disfavor any particular insurance company or type of Variable Contract.

16. As noted above, Section 817(h) of the Code imposes certain diversification standards on the underlying assets of Variable Contracts held in the portfolios of management investment companies. However, the Treasury Regulation which established diversification requirements for such portfolios, specifically permits "qualified pension or retirement plans" and separate accounts to invest in the same underlying management investment company. Therefore, Applicants have concluded that neither the Code, or the Treasury Regulations or the Revenue Rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

17. Applicants state that while there are differences in the manner in which distributions are taxed for variable annuity and variable life insurance contracts and Qualified Plans, these tax consequences do not raise any conflicts of interest. When distributions are to be made, and the Separate Account or the Qualified Plan is unable to net purchase payments to make the distributions, the Separate Account or the Qualified Plan will redeem shares of a Fund at their net asset value. The Qualified Plan will then make distributions in accordance with the terms of the Qualified Plan and Participating Insurance Company will make distributions in accordance with the terms of the Variable Contract.

18. With respect to voting rights, Applicants state that it is possible to provide an equitable means of giving such voting rights to Participating Separate Account contractowners and to the trustees of Qualified Plans. Applicants represent that the Funds will inform each Participating Insurance Company and Qualified Plan of information necessary for the meeting, including their respective share ownership in the relevant Fund. Each Participating Insurance Company will then solicit voting instructions in accordance with Rules 6e–2 and 6e–3(T) and its participation agreement with a fund. Shares held by qualified plans will be voted in accordance with applicable law.

19. Finally, Applicants state that there are no conflicts between contractowners and participants under the Qualified Plans with respect to the state insurance commissioners' veto powers over investment objectives. The basic premise of shareholder voting is that not all shareholders may agree with a particular proposal. This does not mean that there are inherent conflicts of interest between shareholders. The state insurance commissioners have been given the veto power in recognition of the fact that an insurance company cannot simply request redemption of shares held in its separate account and have those shares redeemed out of one Fund and the proceeds invested in another Fund. Generally, to accomplish such redemptions and transfers, complex and time consuming transactions must be undertaken. In contrast, trustees of Qualified Plans or participants in participant directed Qualified Plans can make the decision quickly and implement the redemption of shares from a Fund and reinvest the monies in another funding vehicle without the same regulatory impediments or, as is the case with most Qualified Plans, even hold cash pending suitable investment. Based on the foregoing, Applicants represent that even should there arise issues where the interests of countractowners and the

interests of Qualified Plans conflict, the issues can be almost immediately resolved because the trustees of the Qualified Plans can, independently, redeem shares out of the Funds.

20. Applicants state that various factors have limited the number of insurance companies that offer variable annuity and variable life insurance contracts. According to Applicants, these factors include: the cost of organizing and operating an investment funding medium; the lack of expertise with respect to investment management; and the lack of name recognition by the public of certain insurers as investment professions. Applicants contend that use of the Fund as common investment media for the Variable Contracts would ease these concerns. Participating Insurance Companies would benefit not only form the investment and administrative expertise of GISC and GBGL, but also from the cost efficiencies and investment flexibility afforded by a large pool of funds. Applicants state that making the Funds available for mixed and shared funding may encourage more insurance companies to offer contracts such as the Variable Contracts which may then increase competition with respect to both the design and the pricing of Variable Contracts. Applicants submit that this can be expected to result in greater product variation and lower charges. Thus, Applicants represent that contractowners would benefit because mixed and shared funding will eliminate a significant portion of the costs of establishing and administering separate funds. Moreover, Applicants assert that sales of shares of the Funds to Qualified Plans should increase the amount of assets available for investment by the Funds. This should, in turn, promote economies of scale, permit increased safety of investments through greater diversification.

Applicants' Conditions

Applicants have consented to the following conditions if an order is granted:

1. A majority of the Board of Directors of a Fund ("Board") shall consist of persons who are not "interested persons" of the Fund, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that, if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee or director, then the operation of this condition shall be suspended: (a) for a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. Each Board will monitor its respective Fund for the existence of any material irreconcilable conflict among the interests of the contractowners of all Participating Separate Accounts and of participants of Qualified Plans investing in the Fund and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) an action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of the Fund are managed; (e) a difference in voting instructions given by variable annuity contractowners and variable life insurance contractowners; (f) a decision by a Participating Insurance Company to disregard the voting instructions of contractowners; or (g) if applicable, a decision by a Qualified Plan to disregard the voting instructions of plan participants.

3. The Participating Insurance Companies, GISC and GBGL and any Qualified Plan that executes a fund participation agreement upon becoming an owner of 10% or more of the assets of a Fund (the "Participants"), will report any potential or existing conflicts to the applicable Board. Participants will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation by each Participating Insurance Company to inform the Board whenever contractowner voting instructions are disregarded, and, if pass-through voting is applicable, an obligation by each Participant to inform the Board whenever it has determined to disregard plan participant voting instructions. The responsibility to report such information and conflicts and to assist the Board will be contractual obligations of all Participants under their agreements governing participation in the Funds and such agreements, in the case of Participating Insurance Companies, shall provide that such responsibilities will be carried out with a view only to the interests of contractowners and for Qualified Plans, that these responsibilities will be carried out with a view only to the interest of Plan participants.

4. If it is determined by a majority of the Board, or by a majority of its disinterested directors, that a material irreconcilable conflict exists, the relevant Participants shall, at their expense and to the extent reasonably practicable (as determined by a majority of the disinterested directors), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, up to and including: (a) withdrawing the assets allocable to some or all of the Participating Separate Accounts from a Fund and reinvesting such assets in a different investment medium, which may include another portfolio of that Fund, or submitting the question of whether such segregation should be implemented to a vote of all affected contractowners and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity contractowners or variable life insurance contractowners of one or Variable Contractowners of one or more Participants) that votes in favor of such segregation, or offering to the affected contractowners the option of making such a change; and (b) establishing a new registered management investment company or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the election of a Fund, to withdraw its separate account's investment in that Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Qualified Plan's decision to disregard Plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Plan may be required, at the election of the Fund, to withdraw its investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal.

5. The responsibility to take remedial action in the event of a Board determination of an material irreconcilable conflict and to bear the cost of such remedial action shall be a contractual obligation of all Participants under the agreements governing their participation in the Funds and, in the case of Participating Insurance Companies, will be carried out with a view only to the interest of contractowners and, in the case of

Qualified Plans, will be carried out with a view only to the interests of plan participants. A majority of the disinterested members of the Board shall determine whether any proposed action adequately remedies any material irreconcilable conflict, but, in no event will a Fund, GISC or GBGL be required to establish a new funding medium for any Variable Contract. Further, no Participating Insurance Company shall be required to establish a new funding medium for any Variable Contracts if an offer to do so has been declined by a vote of a majority of contractowners materially and adversely affected by the material irreconcilable conflict. Also, no Qualified Plan will be required to establish a new funding medium for the Plan if: (a) a majority of the plan participants materially and adversely affected by the material irreconcilable conflict vote to decline such offer, or (b) pursuant to documents governing the Qualified Plan, the Plan makes each decision without a plan participant vote.

6. A Board's determination of the existence of an irreconcilable material conflict and its implications will be made known promptly and in writing to all Participants.

7. Participating Insurance Companies will provide pass-through voting privileges to all contractowners to the extent that the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for contractowners. Accordingly, the Participating Insurance Companies will vote shares of a Fund held in their separate accounts in a manner consistent with voting instructions timely received from contractowners. Each Participating Insurance Company will vote shares of a Fund held in its separate accounts for which no voting instructions from contractowners are timely received, as well as shares of that Fund which the Participating Insurance Company itself owns, in the same proportion as those shares of the Fund for which voting instructions from contractowners are timely received. Participating Insurance Companies will be responsible for assuring that each of their separate accounts participating in a Fund calculates voting privileges in a manner consistent with other Participating Insurance Companies. The obligation to calculate voting privileges in a manner consistent with all other separate accounts will be a contractual obligation of all Participating Insurance Companies under the agreements governing their participation in the Funds. Each Participating Plan will vote as required by applicable Plan documents.

8. All reports received by a Board of potential or existing conflicts, and all Board action with regard to: (a) determining the existence of a conflict; (b) notifying Participants of the existence of a conflict; and (c) determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the appropriate Board or other appropriate records. Such minutes or other records shall be made available to the Commission upon request.

9. Each Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Further, each Fund will disclose in its prospectus that (a) shares of the Fund may be offered to insurance company separate accounts funding both variable annuity and variable life insurance contracts, and to Qualified Plans; (b) due to differences of tax treatment and other considerations, the interest of various contractowners participating in such Fund and the interest of Qualified Plans investing in the Fund may conflict; and (c) the Board will monitor the Fund for any material conflicts and determine what action, if any, should be taken.

10. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, shall be the persons having a voting interest in the shares of a Fund), and, in particular, each Fund will either provide for annual meetings (except to the extent that the Commission may interpret Section 16 of the 1940 Act not to require such meetings) or comply with Section 16(c) of the 1940 Act, (although the Fund is not within the type of trusts described in Section 16(c) of the 1940 Act), as well as with Section 16(a), and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

11. If and to the extent that Rules 6e–2 and 6e–3(T) under the 1940 Act are amended (or if Rule 6e–3 is adopted) to provide exemptive relief from any provision of the 1940 Act or the rules thereunder with respect to mixed and shared funding on terms and conditions materially different from any exemptions granted in the order requested by Applicants, then the Funds and/or the Participants, as appropriate, shall take such steps as may be necessary to comply with Rules 6e–2 and 6e–3(T), as amended, and Rule 6e–3, as adopted, to the extent such rules are applicable.

12. No less frequently than annually, the Participants shall submit to the relevant Board such reports, materials, or data as that Board may reasonably request so that the Board may fully carry out the obligations contained in these express conditions. Such reports, materials, and data shall be submitted more frequently if deemed appropriate by a Board. The obligations of the Participants to provide these reports, materials, and data to a Board shall be a contractual obligation under the agreements governing their participation in the Fund.

13. A Fund will not accept a purchase order from a Qualified Plan if such purchase would make the Plan an owner of 10% or more of the assets of such Fund unless the Plan executes a fund participation agreement with the relevant Fund including the conditions set forth above to the extent applicable. A Plan will execute an application containing an acknowledgment of this condition at the time of its initial purchase of Fund shares.

Conclusion

For the reasons and upon the facts summarized above, Applicants assert that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–8200 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (P.T. Riau Andalan Pulp & Paper, 11½% Guaranteed Secured Notes due 2000; 13¼% Guaranteed Secured Notes Due 2005) File No. 1–88604

March 23, 1998.

P.T. Riau Andalan Pulp & Paper ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities

("Securities") from listing and registration on the New York Stock Exchange, Inc. ("NYSE" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities are listed for trading on the Luxembourg Stock Exchange and, pursuant to a Registration Statement on Form 8–A that became effective at the time of issuance, the NYSE. Trading in the Securities commenced on the Luxembourg Stock Exchange and the NYSE on December 15, 1995.

In August, 1997, the Company completed a tender offer and consent solicitation for any and all of the Securities at a premium over the price at which they were then trading. Pursuant to the consent solicitation, the Company asked the holders of the Securities to agree to substantial amendments to the Indenture under which the Securities had been issued. Among other things, the amendments removed from the Indenture covenants of the Company (i) to maintain listing of the Securities on the NYSE, and (ii) to continue to file reports with the Commission even if the Company was no longer subject to the Commission's reporting requirements. In its offering/solicitation document, the Company advised holders of the Securities that it intended to delist the Securities from the NYSE if the proposed amendments to the Indenture became operative.

As a result of the Company's tender offer, all but $6 million of the originally issued and outstanding $300 million in Securities were tendered by holders. These holders also consented to the proposed amendments to the Indenture. The Company has been unable to locate the holders who did not tender their Securities and consent to the proposed amendments, and the Company believes it would be impractical to locate them at the present time. Moreover, the Company believes the holders of the Securities are very small in number. In addition, the Company has represented that there is essentially no trading in, and therefore no market for, the Securities that remain outstanding.

On February 11, 1998, the NYSE advised the Company that it is the policy of the NYSE not to object to voluntary applications to delist securities such as the one filed by the Company.

The Company has stated that its application relates solely to the withdrawal from listing of the Securities on the NYSE and shall have no effect upon the continued listing of the Securities on the Luxembourg Stock Exchange.

Any interested person may, on or before April 13, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–8157 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Resorts International Hotel Financing, Inc., 11% Mortgage Notes due September 15, 2003) File No. 1–9762 and (Resorts International Hotel Financing, Inc., and Sun International Hotels Limited, Units, Each Consisting of $1,000 Principal Amount of Resorts International Hotel Financing, Inc. 11.375% Junior Mortgage Notes Due December 15, 2004, and 0.1928 of one Ordinary Share of Sun International Hotels Limited, Par Value $0.001 per Share) File No. 1–4226

March 23, 1998.

Resorts International Hotel Financing, Inc. ("Resorts International") and Sun International Hotels Limited ("Sun International") (collectively the "Companies") have filed a joint application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("11% Mortgage Notes" and "Units," collectively the "Securities") from listing and registration on the American Stock Exchange, Inc. ("Exchange" or "Amex").

Resorts International issued $125 million principal amount of its 11% Mortgage Notes and $35 million principal amount of its 11.375% Junior Mortgage Notes due December 15, 2004 ("Junior Notes"), each under an indenture dated May 3, 1994 (collectively, the "Indentures").

Under the Indentures, the payment of principal and interest on the 11% Mortgage Notes and the Junior Notes is guaranteed by Resorts International Hotel, Inc. ("RIH").

The 11% Mortgage Notes trade independently on the Exchange and the Junior Notes trade as part of the Units, each consisting of $1,000 principal amount of Junior Notes and 0.1928 of one Ordinary Share of Sun International, par value $0.001 per share.

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

(a) As a result of an Offer to Purchase and Consent Solicitation made by Resorts International in February, 1997, approximately $5.35 million in 11% Mortgage Notes and approximately 1,094 Units (consisting of $1.09 million in Junior Notes) remained outstanding as of February 23, 1998.

(b) As of February 23, 1998, there were only 63 registered holders of the 11% Mortgage Notes and 23 registered holders of the Units.

(c) According to the Companies, the Securities are very thinly traded on the Exchange, if traded on the Exchange at all. The Companies believe it is unlikely that the Securities will become actively traded in the future.

(d) In light of the limited trading volume in the Securities on the Exchange, the costs and expenses attendant on maintaining the listings of the Securities are not justified.

(e) Subsequent to the delisting of its Securities and the filing of a Form 15, Resorts International will no longer be subject to reporting requirements under the Act because the number of holders of its Securities is limited. In addition, Resorts International has no other publicly traded debt or equity securities.

(f) The Companies are not obligated under the Indentures or any other document to maintain the listing of the Securities on the Amex or any other exchange.

(g) In its letter dated December 5, 1997, Bear, Stearns & Co. represented that it would act as a market maker for the Securities upon the delisting of the Securities from the Exchange.

The Companies have represented that they complied with Amex Rule 18 by filing with the Exchange certified copies of the resolutions adopted by their respective Boards of Directors authorizing the withdrawal of the Securities from listing and registration

on the Exchange, and by setting forth in detail to the Exchange the reasons and facts supporting the proposed withdrawal. Furthermore, at the request of the Exchange and pursuant to Amex Rule 18(2)(b), the Companies provided notice of their intent to file this application to holders of the Securities by way of letter dated January 6, 1998.

In its letter dated December 16, 1997, the Exchange informed the Companies that it would not object to the withdrawal of the Securities from listing and registration on the Exchange.

Following the filing of the Form 15 in respect of the Securities, the Companies have represented that they will undertake to provide holders of the Securities with audited annual consolidated financial statements and other relevant information pertaining to RIH. The Companies will also undertake to provide holders of the Securities with notice of any event that materially affects the rights, interests and priority of such holders or the trustees under the Indentures.

Any interested person may, on or before April 13, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–8155 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (The Marquee Group, Inc., Common Stock, $.01 Par Value; Warrants) File No. 1–14594

March 23, 1998.

The Marquee Group, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities ("Securities") from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities also are listed for trading on the American Stock Exchange ("Amex") pursuant to a Registration Statement on Form 8–A that became effective March 11, 1997. Trading in the Securities commenced on the Amex on September 11, 1997.

The Company has complied with the rules of the BSE by filing with the Exchange a certified copy of the resolutions adopted by the Company's Board of Directors authorizing the withdrawal of its Securities from listing and registration on the BSE, and by setting forth in detail to the Exchange the reasons and facts supporting the proposed withdrawal.

In making the decision to withdraw its Securities from listing and registration on the BSE, the Company considered the costs and expenses attendant on maintaining the dual listing of its Securities on the BSE and the Amex. The Company does not see any particular advantage in maintaining the dual listing of its Securities and believes that such dual listing would fragment the market for its Securities.

By letter dated January 13, 1998, the Exchange informed the Company that it would not object to the withdrawal of the Company's Securities from listing and registration on the BSE.

The Company has represented that its application shall have no effect upon the continued listing of the Securities on the Amex. Furthermore, by reason of Section 12(b) of the Act and the rules thereunder, the Company shall continue to be obligated to file reports under Section 13 of the Act with the Commission and the Amex.

Any interested person may, on or before April 13, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–8156 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

isssuer Delisting; Notice of Application To Withdraw From Listing and Registration; (VSI Enterprises, Inc., Common Stock, $.00025 Par Value) File NO. 1–10927

March 23, 1998.

VSI Enterprises, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the Boston Stock Exchange, Inc. ("BSE" or "Exchange").

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security also is listed for trading on the Nasdaq SmallCap Market.

On February 17, 1998, the Board of Directors of the Company determined to withdraw the Security from listing and registration on the BSE. In making the decision to withdraw its Security from listing and registration on the BSE, the Company considered the costs and expenses attendant on maintaining the dual listing of its Security on the Nasdaq SmallCap Market and the BSE. Because a substantial portion of trading in the Security occurs on the Nasdaq SmallCap Market, the Company does not see any particular advantage in continuing the dual trading of the Security.

The Company has represented that it has complied with the rules of the BSE regarding the withdrawal of its Security from listing and registration on the BSE. By letter dated February 27, 1998, the BSE informed the Company that it would not object to the withdrawal of the Company's Security from listing and registration on the BSE.

The Company also has represented that its application shall have no effect upon the continued listing of the Security on the Nasdaq SmallCap Market. Furthermore, by reason of section 12(b) of the Act and the rules thereunder, the Company shall continue to be obligated to file reports under

section 13 of the Act with the Commission.

Any interested person may, on or before April 13, 1998, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–8154 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [To Be Published]

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: To Be Published.

CHANGE IN THE MEETING: Additional Item.

The following item will be added to the closed meeting scheduled for Thursday, March 26, 1998, at 10:00 a.m.:

Settlement of injunctive action.

Commissioner Unger, as duty officer, determined that Commission business required the above change and that no earlier notice thereof was possible.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary (202) 942–7070.

Dated: March 25, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–8318 Filed 3–25–98; 4:40 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39781; File No. SR–AMEX–98–10]

Self-Regulatory Organizations; Notice of Filing Proposed Rule Change by the American Stock Exchange, Inc. Relating to Market-at-the-Close Order Handling Requirements

March 23, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on February 18, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization.[2] 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 Proposed Rule Change

The Amex proposes to adopt a new policy to (i) modify the order entry and imbalance display procedures for market-at-the-close ("MOC") orders on options expiration and non-expiration days and (ii) provide auxiliary imbalance display procedures for the opening. The test of the proposed conforming amendments to Amex Rules 109 and 131 is attached as Exhibit A.

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. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] On February 4, 1998, Amex had filed the current proposal as a non-controversial filing, to be effective upon filing, pursuant to Section 19(b)(3)(A) of the Exchange Act. *See* SR–AMEX–98–06. Pursuant to the request of the Commission staff, on February 18, 1998, Amex simultaneously withdrew that filing and re-submitted it under Section 19(b)(2) of the Act.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange Rule 109 sets forth the procedures to be followed in executing MOC orders. Paragraph (d) of Rule 109 provides that where there is an imbalance between MOC buy and sell orders, the imbalance of buy orders should be executed against the offer, and the imbalance of sell orders against the bid. The remaining buy and sell orders are then paired off and executed at the price of the immediately preceding last sale. The "pair off" transaction is reported to the consolidated last-sale reporting system as "stopped stock."

In May 1995, the Exchange amended Commentary .02 to Exchange Rule 109 to impose a 3:50 p.m. deadline for the entry, cancellation or reduction of MOC orders through the PER system.[3] After the 3:50 p.m. deadline, a member may only enter, modify or cancel MOC orders other than through the PER system. This change was intended to reduce the sometimes disruptive effect on the market of MOC orders entered through the PER system shortly before the close. Prior to the imposition of the 3:50 p.m. deadline, it often took several minutes for a specialist to ascertain whether an imbalance existed and to pair off buyers and sellers, with the result that the executed MOC transactions did not actually print until after the close. When this happened, it was difficult for market participants to ascertain the closing price of the security in question on a timely basis.

Although the 3:50 p.m. deadline has alleviated some of the disruptive impact of MOC orders, further modifications are appropriate in order to both reduce excess market volatility that may arise from the liquidation of stock positions related to trading strategies involving index derivative products and otherwise, and to provide consistency to member organizations by substantially conforming the Amex's policy to the policy currently in effect at the New York Stock Exchange ("NYSE").[4] The existing NYSE policy, noted below, with respect to MOC orders differs from the current Amex policy in several respects:

[3] *See* Securities and Exchange Act Release No. 35660 (May 2, 1995), 60 FR 22592 (May 8, 1995), (File No. SR–AMEX–95–09).

[4] The NYSE recently submitted a proposed rule change which would make various changes to its policy with respect to MOC and LOC orders (*See* SR–NYSE–97–36).

• An earlier 3:40 p.m. deadline is imposed on expiration days.[5]

• The deadlines are applicable to all MOC orders, whether entered through the automated system (*i.e.*, SuperDot) or otherwise, and MOC orders are irrevocable after that time (*i.e.*, they cannot be entered, canceled or changed) except to correct a *bona fide* error or to offst a published imbalance (see below).

• Specialists are required to disseminate a significant MOC order imbalance in certain stocks as soon as practicable after the applicable deadline.[6] If such an imbalance is disseminated, both MOC and limit-at-the-close ("LOC") orders may then be entered after the deadline to offset the imbalance.[7]

• On each expiration day on which index-related derivative products expire against opening prices, several auxiliary procedures are used to assist in achieving an efficient market opening as close to 9:30 a.m. as possible. Stock orders related to index contracts whose settlement pricing is based upon opening prices must be received by 9:00 a.m. (and labeled "OPG"), but may be canceled or reduced in size. Limit-at-the-opening orders are permitted, as are ordinary limit and market orders. As soon as practicable after 9:00 a.m. imbalances of 50,000 shares or more in both the "pilot stocks" and "mid-capitalized" stocks must be published on the tape.

The NYSE policy was developed in order to minimize the excess market volatility that can develop from the liquidation of stock positions related to trading strategies involving index derivative products or otherwise, without unduly restricting legitimate trading strategies. Due to the influx of orders at the close on expiration days, even MOC orders that are not related to such trading strategies can result in order imbalances and a corresponding decreased liquidity at the close. The 3:40 p.m. deadline enables the NYSE specialist to make a timely and reliable assessment of MOC order flow and its potential impact on the closing price, while providing an opportunity to attract any necessary contra-side interest to alleviate an imbalance and minimize price volatility at the close.[8] This is particularly important on expiration days, but, as noted in the NYSE's pending filing, would also be beneficial on non-expiration days by providing additional time to attract contra-side interest when an imbalance does exist.

The Exchange is proposing to substantially conform its policy to the NYSE policy. However, our policy will differ from the NYSE in several respects. Because of the typically smaller float and capitalization of Amex companies, the Amex policy will require dissemination of order imbalances in any common stock[9] with an imbalance of 25,000 shares or more, or if the specialist (with the concurrence of a Floor Official) either anticipates that the execution price of the MOC orders on the book will be at a price change which exceeds the parameters specified in Commentary .08 to Amex Rule 154, or if he otherwise believes that an imbalance should be published.[10] As discussed, the dissemination requirements will be applicable to all common stocks.[11] Even those stocks which are neither included in an index nor underlie a listed option, can, at times, be subject to order imbalances, and dissemination thereof is beneficial to both the investing public and market professionals. The proposed policy is as follows:

(a) A 3:40 p.m. deadline will be imposed every day for the entry of *all* MOC orders in all common stocks, other than those that trade in units of less than 100 shares, except for those to offset published imbalances. MOC orders will be irrevocable after those times, except to correct an error.

(b) Order imbalances must be published on the tape as soon as practicable after 3:40 p.m. if there is an imbalance of 25,000 shares or more. In addition, an order imbalance below 25,000 shares may also be published by a specialist, with the concurrence of a Floor Official, if the specialist (i) anticipates that the execution price of the MOC orders on the book will exceed the price change parameters of Rule 154, Commentary .08, or (ii) believes that an order imbalance should otherwise be published.[12]

(c) LOC orders will be now permitted to be entered prior to the applicable deadline, but after the deadline only to offset a published imbalance.

The Exchange is also proposing that the imbalance dissemination requirements described in paragraph (b) and (c) above also be applied to the opening at 9:30 a.m. The proposed policy can be expected to reduce volatility at the close and opening by improving the specialists' ability to accurately assess MOC and opening order flow, and attract contraside interest to help alleviate order imbalances. Further, the policy will provide the investing public with more timely and reliable information regarding likely opening and closing prices, and thus the ability to make more informed trading decisions.

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Fedral Register or within such longer period (i)

[5] The term *expiration days* refers to both (1) the trading day, usually the third Friday of the month, when stock index options, stock index futures and options on stock index futures expire or settle, and (2) the trading day on which end of calendar quarter index options expire ("QIX options"). The pending NYSE rule change proposal would provide for a 3:40 p.m. deadline every day.

[6] Order imbalances of 50,000 shares or more must be published in "pilot" stocks (the 50 most highly capitalized S & P 500 stocks, any component stocks of the Major Market Index, and the 10 highest weighted S & P Midcap 400 stocks) and in stocks being added to or dropped from an index. In addition, and imbalance may be published in any other stock with the approval of a Floor Official.

[7] The NYSE pilot program for the entry of LOC orders was recently extended until July 31, 1998, and permits LOC orders to be entered at any time during the trading day up until the applicable MOC deadline. Thereafter, as with MOC orders, LOC orders cannot be canceled (except to correct legitimate errors), and can only be entered to offset published imbalances. The Amex does not currently permit the entry of LOC orders.

[8] Even on non-expiration days, there can be an influx of MOC orders related to various trading strategies which utilize closing exchange prices.

[9] This policy will not be applicable to any security whose pricing is based on another security or an index, such as derivatives, warrants and convertible securities.

[10] Commentary .08 requires a specialist to have Floor Official approval before executing a transaction in a stock at a price (i) of $20 or more a share at 2 points or more away from the last sale, (ii) between $10 and $20 a share at one point or more away from the last sale, and (iii) of less than $10 a share at ½ point or more away from the last sale.

[11] The only common stocks which would not be subject to this policy are those that trade in units of less than 100 shares.

[12] Pursuant to Amex Rule 22(d), a specialist may request that a Floor Governor review a determination by a Floor Official not to permit publication of an order imbalance.

as the Commission may designate up to 90 days of such date if it finds 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. 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 in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–AMEX–98–10 and should be submitted by April 20, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

Exhibit A—American Stock Exchange, Inc.

Proposed Rule Change

It is proposed that the following Exchange rules be amended as set forth below. Additions are in italics; deletions are bracketed.

Rule 109. "STOPPING" STOCK

(a)–(d) No Change.

. . . Commentary

.01 Each "stopped" transaction shall be reported for printing on the tape in the form and manner prescribed by the Exchange.

[.02 Members entering market-at-the-close orders through the PER system must do so no later than 3:50 p.m. The foregoing shall not limit or restrict the entry of market-at-the-close orders (or their cancellation) other than via such system.]

Rule 131. TYPES OF ORDERS

(a) through (d)—No change.

At the Close Order

(e) An at the close order is a market order which is to be executed at or as near to the close as practicable. *The term "at the close order" shall also include a limit order that is entered for execution at the closing price, on the Exchange, of the stock named in the order pursuant to such procedures as the Exchange may from time to time establish.*

(f) through (t)—No change.

[FR Doc. 98–8201 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39778; File No. SR–PCX–98–05]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc. Relating to Book Execution Charges for Options Transactions

March 20, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Exchange Act" or "Act")[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 24, 1998, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the 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

The PCX is proposing to amend its Schedule of Fees and Charges by modifying its Book Execution Charges for options transactions.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

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

Under the Exchange's Schedule of Fees and Charges, the Exchange currently charges its member firms for book execution[3] based on a tiered structure. Accordingly, the amount of the book execution charge for a given option transaction currently depends upon the amount of the option premium[4] and the number of the option contracts executed.

The Exchange is now proposing to eliminate its current tiered billing structure for options book executions and to replace it with a flat fee of $0.45 per contract. The only exception to the flat fee is that the Exchange will continue to charge $0.10 for accommodation/liquidation transactions.

The Exchange believes that the change to a $0.45 flat fee will result in an overall reduction in rates charged to Exchange member firms for book executions. Accordingly, the purpose of the proposed rule change is to make the Exchange more competitive by reducing costs incurred by its customers in executing transaction on the Exchange, thus making the Exchange a more cost-effective market center to which to send order flow. The Exchange also believes that the change will make it easier for members and member firms to calculate their book execution charges.

This proposal is consistent with Section 6(b) of the Act, in general, and Section 6(b)(4), in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members.

[3] The term *book execution* refers to transactions executed by the Options Public Limit Order Book. *See generally*, PCX Rules 6.51–6.59.

[4] The *premium* is the price of the option contract that the buyer of the option pays to the option writer for the rights conveyed by the option contract.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Exchange Act and subparagraph (e) of Exchange Act Rule 19b–4 because it constitutes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Exchange 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 Room, 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 PCX. All submissions should refer to File No. SR–PCX–98–05 and should be submitted by April 20, 1998.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Security.

[FR Doc. 98–8202 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39788; File No. 600–25]

Self-Regulatory Organizations; Participants Trust Company; Notice of Filing and Order Approving Application for Extension of Temporary Registration as a Clearing Agency

March 24, 1998.

On February 9, 1998, the Participants Trust Company ("PTC") filed[1] with the Securities and Exchange Commission ("Commission") a request pursuant to Section 19(a) of the Securities Exchange Act of 1934 ("Act")[2] for extension of its temporary registration as a clearing agency under Section 17A of the Act[3] while the Commission completes its review of PTC's request for permanent registration.[4] The Commission is publishing this notice and order to solicit comments from interested persons and to grant PTC's request for an extension of its temporary registration as a clearing agency through March 31, 1999.

On March 28, 1989, the Commission granted PTC's application for registration as a clearing agency pursuant to Sections 17A(b)(2) and 19(a) of the Act[5] on a temporary basis for a period of one year.[6] Subsequently, the Commission issued orders that extended PTC's temporary registration as a clearing agency with the last extending PTC's registration through March 31, 1998.[7]

As discussed in detail in the initial order granting PTC's temporary registration,[8] one of the primary reasons for PTC's registration was to allow it to develop depository facilities for mortgage-backed securities, particularly securities guaranteed by the Government National Mortgage Association. PTC's services include certificate safekeeping, book-entry deliveries, and other services related to the immobilization of securities certificates. Its participants include twenty-seven banks, twenty-three broker-dealers, two government-sponsored enterprises, and the Federal Reserve Bank of New York.

PTC continues to make significant progress in the areas of financial performance, regulatory commitments, and operational capabilities. For example, the original face value of securities on deposit at PTC as of December 31, 1997, totaled $1.3 trillion, an increase of approximately $130 billion over the amount on deposit as of December 31, 1996. Total pools on deposit, which were held at PTC in a total of 1.3 million participant positions, rose from 350,000 as of December 31, 1996, to more than 374,383 as of December 31, 1997. PTC declared a dividend of $1.05 per share to stockholders of record on December 31, 1998.[9]

In connection with PTC's original temporary registration, PTC committed to the Commission and to the Federal Reserve Bank of New York ("FRBNY") to make a number of operational and procedural changes.[10] During the past year, the FRBNY relieved PTC of the only commitment remaining outstanding, the commitment to make principal and interest advances

[5] 17 CFR 200.30–3(a)(12).

[1] Letter from John J. Sceppa, President and Chief Executive Officer, PTC (February 9, 1998).

[2] 15 U.S.C. 78s(a).

[3] 15 U.S.C. 78q–1.

[4] On February 7, 1997, PTC filed an amended Form CA–1 with the Commission requesting permanent registration as a clearing agency under Section 17A of the Act. PTC's request is currently under review by the Commission.

[5] 15 U.S.C. 78q–1(b)(2) and 78s(a).

[6] Securities Exchange Act Release No. 26671 (March 28, 1989), 54 FR 13266.

[7] Securities Exchange Act Release Nos. 27858 (March 28, 1990), 55 FR 12614; 29024 (March 28, 1991), 56 FR 13848; 30537 (April 9, 1992), 57 FR 12351; 32040 (March 23, 1993), 58 FR 16902; 33734 (March 8, 1994), 59 FR 11815; 35482 (March 13, 1995), 60 FR 14806; 37024 (March 26, 1996), 61 FR 14357; and 38452 (March 26, 1997), 62 FR 16638.

[8] *Supra* note 6.

[9] Securities Exchange Act Release No. 39509 (December 31, 1997), 63 FR 1523.

[10] The operational and procedural changes PTC committed to make were:

(1) eliminating trade reversals from PTC's procedures to cover a participant default;

(2) phasing out the aggregate excess net debit limitation for extensions under the net debit monitoring level procedures;

(3) making principal and interest advances, now mandatory, optional;

(4) allowing participants to retrieve securities in the abeyance account and not allowing participants to reverse transfers because customers may not be able to fulfill financial obligations to the participants;

(5) eliminating the deliverer's security interest and replacing it with a substitute;

(6) reexamining PTC's account structure rules to make them consistent with PTC's lien procedures;

(7) expanding and diversifying PTC's lines of credit;

(8) assuring operational integrity by developing and constructing a back-up facility; and

(9) reviewing PTC rules and procedures for consistency with current operations.

optional.[11] The FRBNY noted that although PTC has not changed its rules as specifically required by its commitment, it has addressed the issue that was the subject of that commitment by eliminating the pro rata charge to participants. In addition, the FRBNY stated that PTC has significantly improved its procedures for collection of principal and interest payments by encouraging issuers to use electronic means of payment and by making other operational improvements to accelerate the collection of principal and interest payments made by check.

PTC has functioned effectively as a registered clearing agency for over 8 years. Accordingly, in light of PTC's past performance and the need for continuity of the services PTC provides to its participants, the Commission believes that it is necessary and appropriate in the public interest and for the prompt and accurate clearance and settlement of securities transactions to extend PTC's temporary registration through March 31, 1999. Any comments received during PTC's temporary registration will be considered in conjunction with the Commission's review of PTC's request for permanent registration as a clearing agency under Section 17A[12] of the Act.

Intrerested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 request for extension of temporary registration as a clearing agency that are filed with the Commission, and all written communications relating to the requested extension 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. Copes of such filing also will be available for inspection and copying at the principal office of PTC. All submissions should refer to File No. 600–25.

On the basis of the foregoing, the Commission finds that PTC's request for extension of temporary registration as a clearing agency is consistent with the Act and in particular with Section 17A of the Act.

It is Therefore Ordered, that PTC's registration as a clearing agency be and hereby is approved on a temporary basis through March 31, 1999.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–8199 Filed 3–27–98; 8:45 am]

BILLING CODE 8010–01–M

[11] Letter from William Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, to John Sceppa, President and Chief Executive Officer, PTC dated (July 30, 1997).

[12] 15 U.S.C. 78q–1.

[13] 17 CFR 200.30–3(a)(50).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before May 29, 1998.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, S. W., Suite 5000, Washington, D. C. 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: "Title VII Study and Report".

Type of Request: New Request.

Form No: N/A.

Description of Respondents: Service-Disabled Veterans who own and operate Small Businesses.

Annual Responses: 1,360.

Annual Burden: 680.

Comments: Send all comments regarding this information collection to Reginald Teamer, Regional Coordination Specialist, Office of the Assistant Administrator for Veterans Affairs Small Business Administration, 409 3rd Street, S.W., Suite 6000, Washington, D.C. 20416. Phone No: 202–205–7278.

Send comments regarding whether this information collection is necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize this estimate, and ways to enhance the quality.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 98–8243 Filed 3–27–98; 8:45 am]

BILLING CODE 8025–01–U

SMALL BUSINESS ADMINISTRATION

Interest Rates: Quarterly Determinations

The Small Business Administration publishes an interest rate called the optional "peg" rate (13 CFR 120.214) on a quarterly basis. This rate is a weighted average cost of money to the government for maturities similar to the average SBA direct loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. This rate will be 5¾ percent for the April–June quarter of FY 98.

Pursuant to 13 CFR 120.921(b), the maximum legal interest rate for a commercial loan which funds any portion of the cost of a project (see 13 CFR 120.801) shall be the greater of 6% over the New York prime rate or the limitation established by the constitution or laws of a given State. The initial rate for a fixed rate loan shall be the legal rate for the term of the loan.

Jane Palsgrove Butler,

Acting Associate Administrator for Financial Assistance.

[FR Doc. 98–8244 Filed 3–27–98; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

Social Security Ruling, SSR 98–1p; Title XVI: Determining Medical Equivalence in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech

AGENCY: Social Security Administration.

ACTION: Notice of Social Security Ruling.

SUMMARY: In accordance with 20 CFR 402.35(b)(1), the Commissioner of Social Security gives notice of Social Security Ruling, SSR 98–1p. This Ruling results from the "top-to-bottom" review of the implementation of changes to the Supplemental Security Income childhood disability program necessitated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193). It provides a policy interpretation that children who have a "marked" limitation in cognitive functioning and a "marked" limitation in speech have an impairment or combination of impairments that medically equals Listing 2.09. It also provides guidance for determining when a child has a "marked" or an "extreme" limitation in each of these areas.

EFFECTIVE DATE: March 30, 1998.

FOR FURTHER INFORMATION CONTACT: Ken Nibali, Social Security Administration,

6401 Security Boulevard, Baltimore, MD, 21235, (410) 965–1250.

SUPPLEMENTARY INFORMATION: Although we are not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Ruling in accordance with 20 CFR 402.35(b)(1).

Social Security rulings make available to the public precedential decisions relating to the Federal old-age, survivors, disability, supplemental security income, and black lung benefits programs. Social Security Rulings may be based on case decisions made at all administrative levels of adjudication, Federal court decisions, Commissioner's decisions, opinions of the Office of the General counsel, and policy interpretations of the law and regulations.

Although Social Security Rulings do not have the same force and effect as the statute or regulations, they are binding on all components of the Social Security Administration, in accordance with 20 CFR 402.35(b)(1), and are to be relied upon as precedents in adjudicating cases.

If this Social Security Ruling is later superseded, modified, or rescinded, we will publish a notice in the **Federal Register** to that effect.

(Catalog of Federal Domestic Assistance, Program 96.006 Supplemental Security Income)

Dated: March 19, 1998.

Kenneth S. Apfel,

Commissioner of Social Security.

Policy Interpretation Ruling—Title XVI: Determining Medical Equivalence in Childhood Disability Claims When a Child Has Marked Limitations in Cognition and Speech

Purpose: To provide a policy interpretation that children who have a "marked" limitation in cognitive functioning and a "marked" limitation in speech have an impairment or combination of impairments that medically equals Listing 2.09. Also, to provide guidance for determining when a child has a "marked" or an "extreme" limitation in each of these areas.

Citations (Authority): Section 1614(a) of the Social Security Act, as amended; Regulations No. 16, subpart I, sections 416.902, 416.923, 416.924, 416.925, 416.926; Regulations No. 4, subpart P, appendix 1—Listing of Impairments.

Background: On December 17, 1997, the Commissioner of Social Security issued the Review of SSA's Implementation of New SSI Childhood Disability Legislation (Pub. No. 64–070), a report of a "top-to-bottom" review of the implementation of changes to the Supplemental Security Income (SSI) childhood disability program necessitated by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Pub. L. 104–193).

As a result of the review, the Commissioner directed additional instruction on the evaluation of a combination of cognitive and speech disorders that separates speech disorders from cognitive disorders. Among other things, the Commissioner directed the issuance of a Ruling on the evaluation of speech disorders in combination with cognitive limitations. [1]

Introduction: The regulations at 20 CFR 416.906 explain that, for children claiming SSI benefits under the Social Security Act (the Act), an impairment or combination of impairments must cause "marked and severe functional limitations" in order to be found disabling. The regulations at 20 CFR 416.902 provide that "marked and severe functional limitations," when used as a phrase, is a level of severity that meets, medically equals, or functionally equals the severity of a listing in the Listing of Impairments, appendix 1 of subpart P of 20 CFR part 404 (the listings).

The regulations at 20 CFR 416.925(b)(2) explain that, in general, a child's impairment or combination of impairments is "of listing-level severity" if it causes marked limitation in two broad areas of functioning or extreme limitation in one such area.

The regulations at 20 CFR 416.926 explain that we will decide that a child's impairment or combination of impairments is medically equivalent to a listed impairment if the medical findings are at least equal in severity and duration to the listed findings. We will compare the signs, symptoms, and laboratory findings concerning the child's impairment or combination of impairments, as shown in the medical evidence we have about the claim, with the corresponding medical criteria shown for any listed impairment.

In particular, the regulations at 20 CFR 416.926(a)(2) provide that, if a child has an impairment that is not described in the listings, or a combination of impairments, no one of which meets or is medically equivalent to a listing, we will compare the child's medical findings with those for closely analogous listed impairments. If the medical findings related to the child's impairment or combination of impairments are at least of equal medical significance to those of a listed impairment, we will find that the child's combination of impairments is medically equivalent to the analogous listing.

[1] This Ruling addresses evaluation of speech disorders in combination with cognitive limitations. It does not address evaluation of receptive or expressive language disorders, which can also result in disability. In addition, this Ruling does not address evaluation of the area of Cognition/Communication under the broad areas of functioning of the functional equivalence provision, as discussed in 20 CFR 416.926a(c)(4).

Policy Interpretation

I. Need To Establish a Medically Determinable Impairment

Section 1614(a)(3)(C)(i) of the Act and 20 CFR 416.906 provide that a child's disability must result from a medically determinable physical or mental impairment. Section 1614(a)(3)(D) of the Act and 20 CFR 416.908 further provide that the physical or mental impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings.

The discussions in this Ruling address the evaluation of the severity of impairments affecting speech and cognition. They presume that the existence of such medically determinable impairments has already been established.

II. Terms and Definitions

A. *Cognition* involves the ability to learn, understand, and solve problems through intuition, perception, auditory and visual sequencing, verbal and nonverbal reasoning, and the application of acquired knowledge. It also involves the ability to retain and recall information, images, events, and procedures during the process of thinking. There are many impairments that can cause limitations in cognition, such as genetic disorders or brain injury.

B. *Speech* is the production of sounds (phonemes) in a smooth and rhythmic fashion for the purposes of oral communication. It includes articulation, voice (pitch, volume, quality), and fluency (the flow, or rate and rhythm, of speech). Understandable speech results from precise neuromuscular functioning of the speech mechanism (e.g., lips, tongue, hard palate, vocal folds, respiratory mechanism), and intact structure and functioning of the speech centers in the brain.

There are many impairments that can cause limitations in speech, such as brain lesions or cortical injury resulting

in apraxia; other neurological abnormalities, such as cerebral palsy producing dysarthria; or structural abnormalities, such as cleft palate producing hypernasality. Speech differs from language (receptive and expressive). Speech is the production of sounds for purposes of oral communication; language provides the message of the communication, and involves the use of semantics (e.g., vocabulary), syntax (e.g., grammar), and pragmatics (i.e., use of language in its social context) in the understanding and expression of messages.

III. Limitations in Cognition and Speech

A. *Mental Retardation and Speech Impairment.* In the childhood disability program, children who have a valid diagnosis of mental retardation ("significantly subaverage general intellectual functioning with deficits in adaptive functioning") have, by definition, at least a "marked" cognitive limitation. However, a child may have a marked limitation in cognitive functioning without being diagnosed with mental retardation. (See B.)

Listing 112.05 is used to evaluate mental retardation, which is demonstrated by significantly subaverage general intellectual functioning with deficits in adaptive functioning. A child's impairment meets Listing 112.05D or 112.05F when the child has a diagnosis of mild mental retardation and a physical or other mental impairment imposing "additional and significant limitation of function" [i.e., more than minimal limitation of function]. In these listings, the significantly subaverage general intellectual functioning needed to establish that component of the diagnosis of mild mental retardation is shown by a valid verbal, performance, or full scale IQ of 60 through 70 (under Listing 112.05D) or "marked" limitation in the area of cognition/communication (under Listing 112.05F, by reference to Listing 112.02B1b or 112.02B2a). Of course, mild mental retardation may be sufficiently severe in itself to meet the criteria of Listing 112.05 A or E. More impairing cases of mental retardation (i.e., moderate, severe, or profound) will meet the criteria of Listing 112.05 B or C.

A speech impairment may satisfy the criterion for a physical or other mental impairment imposing "additional and significant limitation of function" under Listings 112.05D and 112.05F when it causes more than minimal limitation of function. To satisfy this criterion, a child's problems in speech must be separate from his/her mild mental retardation.

- A child with mild mental retardation may have speech problems resulting from an impairment of known etiology that is clearly separate from the mental retardation; e.g., a congenital disorder (as with a congenital brain injury, or a cleft palate resulting in hypernasality) or an acquired disorder (as in a child who already has mental retardation and who suffers a traumatic head injury resulting in a neurological or physical problem affecting the ability to produce speech sounds).
- A child with mental retardation may also have speech problems resulting from an impairment of unknown etiology that nevertheless is clearly separate from the mental retardation; e.g., poorly intelligible speech of unknown etiology.

It is possible for a child with mental retardation to have limitations in speech that do not constitute an impairment separate from the mental retardation. In a child with mental retardation, speech development is often commensurate with the level of cognitive functioning. Therefore, in the absence of an impairment of speech that is separate from the child's mental retardation, a speech pattern that has been and continues to be consistent with the child's general intellectual functioning is not regarded as separate from the mental retardation and will not be found to satisfy the criterion in Listings 112.05D and 112.05F for a physical or other mental impairment imposing additional and significant limitation of function.

On the other hand, if a child's speech development is not even commensurate with his/her general intellectual functioning (i.e., is significantly below that which would be expected given the level of cognitive functioning), then the limitations in speech would be regarded as an impairment separate from the mental retardation that would satisfy the criterion in Listings 112.05D and 112.05F for a physical or other mental impairment imposing additional and significant limitation of function.

B. *"Marked" Limitations in Cognition and Speech.* A child whose impairment does not meet the capsule definition of mental retardation in Listing 112.05 may nevertheless have a marked limitation in cognitive functioning. When such a child also has an impairment that causes a "marked" limitation in speech (see Table 1 and Section VI), the combination of limitations in cognition and speech will be found medically equivalent to Listing 2.09 in part A of the listings.[2]

This policy interpretation regarding the evaluation of a combination of cognition and speech impairments is an exception to the guidance in listings section 2.00B3. That section explains that impairments of speech due to neurologic disorders should be evaluated under 11.00–11.19, the neurological listings generally used to evaluate impairments in individuals age 18 or older. For the purposes of this Ruling only, however, neither the neurological listings in 11.00–11.19, nor those in 111.00 for individuals who have not attained age 18 will be used; only Listing 2.09 will be employed.

C. *"Extreme" Limitations in Cognition and Speech.* An impairment(s) that causes an "extreme" limitation in cognition or in speech is always of listing-level severity and, thus, will always meet or equal the severity of a listing.

1. Cognition. The vast majority of children with "extreme" limitations in cognition will have mental retardation and will have an impairment that meets one of the listings in 112.05. Very infrequently, however, a child with an IQ in the "extreme" range will not have the deficits in adaptive functioning needed to establish the diagnosis of mental retardation. In these rare instances, the validity of the IQ and the assessment of adaptive functioning should be verified. If both appear accurate and a diagnosis of mental retardation is not supportable, the child's impairment will nevertheless medically equal the criteria of a childhood mental disorders listing; e.g., Listing 112.02.

2. Speech. Listing 2.09 recognizes disability on the basis of an "[o]rganic loss of speech due to any cause with inability to produce by any means speech which can be heard, understood, and sustained." This listing applies to children as well as adults, and describes the most extreme limitation of speech. However, children with less serious limitations of speech than are described in Listing 2.09 may still have an "extreme" limitation, as noted in Table 1, and, therefore, may also have impairments that meet or equal the requirements of a listing.

IV. Documenting Limitations in Cognition and Speech

A. *Documentation of Severity.* 1. Evidence of the severity of cognitive

[2] In general, part A of the listings contains medical criteria that apply to persons age 18 and over; part B contains medical criteria that apply to persons under age 18. However, the medical criteria in part A may also be applied in evaluating impairments in persons under age 18 if the disease processes have a similar effect on adults and younger persons, as in Listing 2.09. See 20 CFR 416.925(b).

limitation should generally include the results of psychological testing, with subtest scores, and the psychologist's interpretation of the results, including his/her conclusion regarding the validity of the testing. The psychological test scores must also be sufficiently current for accurate assessment.[3]

Evidence of the severity of cognitive limitation should also include information about learning achievement (e.g., test scores, school performance records) and descriptions (from medical and lay sources) of the child's ability to do age-appropriate, cognitively related tasks and activities at home and school.

2. Evidence of the severity of speech limitation should generally include the results of a comprehensive examination of the child's speech (articulation, voice, fluency), and descriptions of the child's speech in daily circumstances (e.g., the sounds a child produces, the percentage of intelligibility of the child's speech). These descriptions come from persons who have opportunities to listen to the child; i.e., both lay and professional sources (see Section VI.C.). The evidence must be sufficient and recent enough to permit a judgment about the child's current level of functioning. In some instances, it may be necessary to obtain a consultative examination in order to assure recency of the evidence.[4]

B. *Sources of Evidence.* Evidence of a child's cognitive functioning and speech may be available from various sources. For example, if a child is receiving special education services, the school should be able to provide records of testing, clinical observations, and classroom performance. Examples of some sources include the following.

1. Multidisciplinary teams. Children being assessed for possible developmental problems are evaluated by a multidisciplinary team that may include a psychologist, physician, speech-language pathologist, audiologist, special educator, teacher, and other related specialists as needed; information concerning the child's cognitive abilities and speech should be available from the team's comprehensive report(s). The remediation plans for infants and toddlers (birth to age 3) are reviewed every 6 months. School-aged children in the public school system should be reassessed at least every 3 years.

2. Comprehensive evaluations. A child with documented problems in cognition and speech who is already receiving special education services must have had a comprehensive evaluation prior to receiving such services. That evaluation should include results of formal testing and clinical observations.

3. Individualized plans. Children who are cognitively limited, speech-impaired, or limited in both areas, may receive special education services in Early Intervention Programs (infants and toddlers, from birth to age 3 years), or in school-based educational programs in preschool, kindergarten, elementary, and secondary school. Annual goals and objectives for such programs, as well as test results, are documented yearly in individualized plans of intervention: for infants and toddlers, in the Individualized Family Service Plan (IFSP); for children age 3 and older, in the Individualized Education Program (IEP).

4. Speech-language progress notes. For any child receiving speech-language special education services, the speech-language pathologist should have prepared periodic progress notes that document the child's current strengths and weaknesses.

5. Other sources. Other potential sources of evidence of severity include reports from parents, daycare providers, social workers, case managers, teachers, treatment sources, or consultative examinations.

V. Rating Limitations in Cognition and Speech

When the outcome of a disability determination depends on conclusions regarding a child's cognitive and speech limitations, experts in the fields of cognitive assessment and speech-language should participate in the evaluation of the claim whenever possible.

A. *Cognition.* Marked cognitive limitation is usually identified under any of the following circumstances:[5]

1. When standardized intelligence tests provide a valid score that is 2 Standard Deviations (SDs) or more below the norm for the test (but less than 3 SDs), with appropriate consideration of the Standard Error of Measurement.

2. In the absence of valid standardized scores, when a child from birth to attainment of age 3 has an impairment or combination of impairments that results in cognitive functioning at a level that is more than one-half but not more than two-thirds of the child's chronological age.

3. When a child from age 3 to attainment of age 18 has an impairment or combination of impairments that causes "more than moderate" but "less than extreme" limitation in cognitive functioning; i.e., when the limitation interferes seriously with the child's cognitive functioning.

A finding that a limitation in a child's cognitive abilities is "marked" or "extreme," or that it is less than "marked," must be based on all of the relevant evidence in the case record.

B. *Speech.* Marked limitation in speech will be evaluated under the guidelines in Table 1. Section VI explains how to use the table.

VI. Table 1: Guidelines for Evaluating the Severity of Speech Impairments

A. *General.* 1. The guidelines for evaluating severity in Table 1 use age groupings that do not correspond to the age ranges in 20 CFR 416.926a and the childhood mental disorders listings but, rather, are related to the developmental progression of speech; e.g., the aspects of speech development that tend to occur between birth and age 2. The guidelines refer to errors that are not typical or expected for the particular age grouping; e.g., 2 to 3½ years. This principle of evaluation is based on the fact that speech development, like fine and gross motor development, is incremental and follows milestones as predictable as rolling over, crawling, and standing. The upper age category in Table 1 is age 5 and older because, by age 5, almost all sounds are mastered; however, the few age-appropriate sound errors still occurring after age 5 involve sounds (e.g., "r," "th") that may not be completely refined until age 8. Thus, by age 8, a child should have a repertoire of sounds that is complete and accurate; by definition, any misarticulations beginning at age 8 are inappropriate.

A child's speech patterns and misarticulations, and when these occur, can be indicative of whether a child's speech is developing, or has developed, appropriately.

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[3] The interpretation of the psychological testing is primarily the responsibility of the psychologist or other professional who administered the test. When an appropriate medical professional has provided test results that meet the standards in SSA regulations (e.g., that are consistent with the other evidence in the case record, or that note and resolve discrepancies between the test results and the child's customary behavior and daily activities), the adjudicator will ordinarily accept the results, unless contradictory evidence in the case record establishes that the results are incorrect.

[4] The same principles apply here as for psychological testing. When an appropriate medical professional has provided test results that would meet SSA standards (e.g., that are consistent with the other evidence in the case record, or that note and resolve discrepancies between the test results and the child's customary behavior and daily activities), the adjudicator will ordinarily accept the results, unless contradictory evidence in the case record establishes that the results are incorrect.

[5] The basic definitions of "marked" and "extreme" limitation are provided in 20 CFR 416.926a(c)(3). This Ruling provides further interpretation of the definitions of "marked."

2. Table 1 is divided into three columns: Chronological Age or Cognitive Level, Marked Limitation, and Extreme Limitation. Once the appropriate category for chronological age or cognitive level is identified (see Section B), use the second and third columns to determine whether a child with a speech impairment has a "marked" or an "extreme" limitation in speech. The evaluation of the severity of the speech impairment should be based on evidence concerning:

- The sound production and intelligibility of the child's speech in relation to the listener and the topic of conversation (see Section C); and
- The child's speech patterns (see Section D).

A finding that a limitation in speech is "marked" or "extreme," or that it is less than "marked," must be based on all of the relevant evidence in the case record.

3. If the limitation in speech is "marked" and the child also has a "marked" limitation in cognition, or if the limitation is "extreme," consider the duration of the impairment (see Section E).

4. Note on use of terms.

a. The terms used in the Table 1 are typically found in reports of comprehensive speech-language evaluations. However, some reports may not use these terms or may use the terms differently than intended in the table. If the evidence does not use the descriptors employed in the table, or it is not clear how the terms are used, it may be necessary to contact the source to clarify the information.

b. Terms such as "poor," "severe," "mild," or "marked" may be used in the evidence to describe a child's functioning. These terms have different meaning to different people. Therefore, when such terms are not illustrated or explained by the evidence, it may be necessary to contact the source for an explanation of their meaning.

B. *Chronological Age and Cognitive Level.* 1. Cognitive level is the level of a child's thinking. In many instances, cognitive and speech development are highly correlated, so that a child whose cognitive level is below chronological age will often have speech development that is appropriate to the cognitive level rather than the chronological age. Thus, although a child's speech patterns may not be appropriate from the perspective of his/her chronological age, they may be appropriate to his/her cognitive level. For example, a 4-year-old child's cognitive level may be that of a child in the age range 2 to 3½ because of an impairment affecting cognitive functioning. Speech at the 2½-to-3-year level would be considered a function of (related to) the child's cognitive level.

2. Use a child's chronological age for evaluation of severity:

a. When the child is 8 years of age or older; or

b. When the child is less than 8 years of age and the limitations in speech are the result of a congenital or acquired impairment of speech, either structural or neurological (e.g., cleft palate, dysarthria, apraxia of speech).

3. *Use a child's cognitive level for evaluation of severity* in all other cases.

4. Determining the cognitive level.

a. The cognitive level may be determined from information in the case record; e.g., score from the Bayley Scales of Infant Development, Wechsler composite scores (verbal, performance, full scale), or Stanford-Binet score. Most children with "marked" limitation in cognitive functioning will have evidence of testing showing the cognitive level, or from which the cognitive level can be determined. Particularly in the case of young children, the cognitive level is frequently included along with test scores in evaluation reports. See Section IV.B. for a list of examples of sources of evidence.

b. Developmental testing often addresses a child's progress in several areas, and developmental levels may be reported for cognition and at least one other area; e.g., motor or social functioning. For purposes of Table 1, use the level reported for the child's cognitive ability.

c. If the cognitive level is not clearly indicated in the case record or cannot be determined from the evidence, it may be necessary to recontact a source who has already evaluated and provided evidence about the child or to purchase a consultative examination. If a language level based on the total language score is included in the case record, it may be used as a proxy for the cognitive level for children up to age 6. Whether additional information will be needed will depend on the facts of the case.

C. *Sound Production and Intelligibility.* 1. Evidence of sound production and intelligibility.

a. Ideally, to assess a child's sound production and the intelligibility of speech, descriptions are needed from at least two listeners, one lay and one professional. If there is a conflict in the evidence concerning the child's sound production or intelligibility, it may be necessary to obtain a third descriptive statement, preferably from an additional professional source who is familiar with the child.

b. Listeners will either be familiar with the child (i.e., have listened to the child daily or frequently) or unfamiliar (i.e., have listened to the child infrequently). Familiar lay sources are people who know the child well, such as parents, relatives, and neighbors.

c. A professional source is a person who has training and experience in evaluating a child's speech. Examples of professional sources may include, but are not limited to, speech-language pathologists, special education teachers, pediatric neurologists, pediatricians, and occupational therapists. A professional source may also be a familiar listener (e.g., a source who provides regular treatment) or an unfamiliar listener (e.g., a consulting examiner).

2. Sound production refers to a young child's vocalizations (e.g., "cooing") that gradually become more complex and develop into recognizable speech sounds. For example, beginning around 4 to 5 months of age, an infant engages in "babbling," which consists of consonant-vowel sequences (e.g., "ba-ba"). Later, around 10 months of age, an infant begins "jargoning," which is the production of strings of speech sounds having the intonational patterns of adult speech. The variety, pitch, and intensity, of a child's sounds at this stage of development are important factors in the assessment of a child's very early speech development. Eventually, the young child uses his/her repertoire of speech sounds to imitate and produce words; this repertoire should be complete by 8 years of age.

3. Intelligibility (clarity) means the degree to which the child can be understood by the listener. To rate the intelligibility of a child's speech, a listener (regardless of whether a professional or a lay source) must be asked to provide information about how well the child can be understood, preferably in terms of a percentage (e.g., 50% of the time) or fraction (e.g., half the time).

a. The expected degree of intelligibility increases with a child's age, with a typical rate of 50% intelligibility to family members at 2 years of age, and almost full intelligibility to all listeners by attainment of 4 years of age.

b. Intelligibility is also affected by the extent to which the listener is familiar with the child's speech and the topic of conversation.

- Ratings of intelligibility should be evaluated with respect to the familiarity of the listener with the child and the frequency of contact; however, see paragraph c.

• Consideration must also to be given to the familiarity of the listener with the topic (i.e., content) of the speech. When the child's speech is difficult to understand and the topic of the conversation is unknown or not familiar to the listener, the intelligibility of the message is reduced.

c. Ratings of intelligibility by unfamiliar listeners for whom the topic of conversation is unknown assume increasingly greater importance as children age. Young children typically talk about what is immediately present in their environment, and listeners may be able to use external clues to understand such children's speech. As children age, however, the topics of their conversation should become less embedded in the immediate physical context (e.g., they talk about past or future events); the unfamiliar listener, therefore, has fewer clues available for understanding the child's speech. The older a child becomes, the more intelligible he/she needs to be in school and social situations and with infrequent listeners or strangers.[6]

D. *Speech Patterns.* 1. Speech patterns refers to sounds, omissions, distortions, or phonological patterns, and the fluency, or rate and rhythm, of speech.

2. Phonological patterns refers to the selection, sequence, combination, and placement of sounds that the rules of sound production comprise. A child's "phonological development" (the acquisition of sounds and understanding of their use) consists of learning these rules through instinctual experimentation and practice. For example, a child may use "yedow" for "yellow," or "ba-oon" for "balloon," until normal phonological development makes possible his/her use of the "l" sound in a word. A child's phonological patterns are appropriate if they are typical for his/her cognitive level; they are inappropriate if they are not typical for his/her cognitive level. Information about phonological patterns is included in speech-language evaluations.

3. Misarticulations are incorrect productions of speech sounds, and may include various kinds of "speech errors"; e.g., distortions (such as vowel distortions, lateralized "s"), substitutions (such as lisping), or omissions of sounds. Such errors may occur in the beginning, middle, or end of words. As noted previously, certain misarticulations are appropriate because they are typical of various stages of phonological development. As a child grows older, certain misarticulations are not typical of his/her group and are, thus, inappropriate. The nature of the misarticulation and its placement in the word can affect the seriousness of the "speech error" and its effect on intelligibility. For example, the omission of consonant sounds at the beginning of many words can render much of a child's speech unintelligible.

4. Dysfluent speech is a break in the rhythm and rate of speech. Children between ages 2½ and 4 may go through a period in which they produce "normal dysfluencies." The pattern of a child's dysfluencies, and whether it is typical or atypical for the child's cognitive level, can be indicative of whether a child's speech is developing appropriately.

5. Voice refers to the pitch, quality, and intensity of a child's voice. Aberrations in voice are not a function of the child's cognitive level and are usually atypical at any age.

6. Sources of information. Information concerning a child's speech in relationship to his/her cognitive level must be provided by persons who are knowledgeable about the specific milestones of development of speech; e.g., which misarticulations are appropriate or inappropriate to the child's cognitive level. If a child is receiving treatment to remediate a speech impairment, the most likely source of this kind of information will be the speech-language pathologist. However, a preschool or special education teacher may also be able to provide the needed information, as might another health care specialist; e.g., developmental pediatrician, pediatric neurologist, occupational therapist, or a person otherwise qualified by training and experience.

E. *Duration.* Children who exhibit serious speech difficulties will sometimes "outgrow" them. Some speech difficulties will respond to treatment more readily than others. Therefore, when it is determined that a child has a "marked" limitation in cognition together with a "marked" limitation in speech that has not yet lasted at this level for 12 months, it will be necessary to determine whether the limitation in speech is expected to persist at the "marked" level for a continuous period of at least 12 months. The presence of any of the factors in Table 2 makes it less likely that the child will simply "outgrow" the speech impairment, and more likely that a longer period of intervention will be required for remediation of the speech impairment.

The presence of one of the factors in Table 2 will strongly suggest that an impairment has met or will meet the duration requirement. However, the converse is not necessarily true: A child's speech impairment may nevertheless still require extensive speech treatment for a long period of time even though none of the factors in Table 2 is present in the evidence. Whether the impairment has lasted or is expected to last for a continuous period of not less than 12 months is a judgment that must be made based on the evidence particular to each case.

TABLE 1.—GUIDELINES FOR EVALUATING SEVERITY OF SPEECH IMPAIRMENTS

Chronological age or cognitive level (see section VI.B.)	Marked limitation	Extreme limitation
Birth to attainment of 2 years	a. Sound production other than crying (e.g., cooing, babbling, jargoning) occurs infrequently; child is unusually quiet; or b. Limited or otherwise abnormal variation in pitch, intensity, and sound production	a. A criterion for Marked Limitation is met, and b. Consonant-vowel repertoire is not sufficient to support the development of expressive language.
2 to attainment of 3½ years	a. Most messages are not readily intelligible even in context; and b. Sounds, omissions, distortions, or phonological patterns, or fluency (rate, rhythm of speech) not typical for this group; or significant aberrations in vocal pitch, quality, or intensity	a. Criteria for Marked Limitation are met, and b. Gesturing and pointing are used most of the time instead of oral expression, and c. Intelligibility does not improve even with repetition or models, or ability to imitate words is limited.

[6] Although reference is made to the child's topic of conversation, which necessarily involves language, the issue being addressed here is the child's speech and its intelligibility in conversation; the topic of conversation is one of many variables that can affect the intelligibility of the child's speech for the listener.

TABLE 1.—GUIDELINES FOR EVALUATING SEVERITY OF SPEECH IMPAIRMENTS—Continued

Chronological age or cognitive level (see section VI.B.)	Marked limitation	Extreme limitation
3½ to attainment of 5 years	a. Sounds, omissions, distortions, or phonological patterns, or fluency (rate, rhythm of speech) not typical for this group; or significant aberrations in vocal pitch, quality, or intensity; and b. Conversation is intelligible no more than ½ of the time on first attempt; and c. Intelligibility improves with repetitions	a. Criteria a. and b. for Marked Limitation are met, and b. Conversation continues to be intelligible no more than 1/2 of the time despite repetitions and c. Stimulability for production of sounds is limited, or, ability to imitate words is limited.
5 years and older	a. Sounds, omissions, distortions, or phonological patterns, or fluency (rate, rhythm of speech) not typical for this group; or significant aberrations in vocal pitch, quality, or intensity; and b. Conversation is intelligible no more than ½ to ⅔ of the time on first attempt; and c. Intelligibility improves with repetitions	a. Sounds, omissions, distortions, or phonological patterns, or fluency (rate, rhythm of speech) not typical for this group; or significant aberrations in vocal pitch, quality, or intensity; and b. Conversation is intelligible no more than ½ of the time despite repetitions.

TABLE 2.—FACTORS SUGGESTING THAT THE DURATION REQUIREMENT WILL BE MET

1. Neurologically based abnormalities, including—
   - Oral-motor problems at the volitional level (e.g., ability to imitate oral-motor movements is limited); or
   - Oral-motor problems at the automatic level (e.g., drools profusely, exhibits feeding disorder); or
   - Oral hypersensitivity (e.g., limited tolerance of different food textures); or
   - Insufficient breath support for speech.
2. Hearing abnormalities, including—
   - Conductive hearing loss; or
   - Sensorineural hearing loss.
3. Structurally based abnormalities, including—
   - Defect of the oral mechanism (e.g., vocal fold paralysis); or
   - Oral-facial abnormality (e.g., cleft lip/palate).
4. Speech-related behavioral abnormalities, including—
   - Communication-related physical behaviors that are negative (e.g., grimaces or has excessive eye-blinking during stuttering episodes; gestures, such as slapping a surface, to end stuttering block); or
   - Avoidance of speaking because of speech difficulties.

EFFECTIVE DATE: This Ruling is effective March 30, 1998.

Cross-references: Program Operations Manual System DI 25201.001–005, DI 25215.005, DI 34001.000, DI 34005.000.

[FR Doc. 98–8135 Filed 3–27–98; 8:45 am]

BILLING CODE 4190–29–U

DEPARTMENT OF STATE

[Public Notice No. 2774]

Renewal of Defense Trade Advisory Group Charter and Notice of Meeting

The updated Charter of the Defense Trade Advisory Group has been renewed for a two-year period. The Charter was revised for clarification. The Defense Trade Advisory Group (DTAG) will meet beginning at 9 a.m. on Friday, April 17, 1998, in the East Auditorium, Room 2925, U.S. Department of State, 2201 C Street, NW, Washington, DC. The membership of this advisory committee consists of private sector defense trade specialists appointed by the Assistant Secretary of State for Political-Military Affairs who advise the Department on policies, regulations, and technical issues affecting defense trade.

The open session will include presentations by guest speakers and representatives of the Department of State and other agencies. Reports will also be presented on DTAG Working Group progress, results, and future projects.

Members of the public may attend the open session as seating capacity allows, and will be permitted to participate in the discussion in accordance with the Chairman's instruction.

As access to the Department of State is controlled, persons wishing to attend the meeting must notify the DTAG Executive Secretariat by COB Monday, April 13, 1998. If notified after this date, the DTAG Secretariat cannot guarantee that State's Bureau of Diplomatic Security can complete the necessary processing required to attend the April 17 plenary.

Each person should provide his/her name, company or organizational affiliation, date of birth, and social security number to the DTAG Secretariat by fax to (202) 647–4232 (Attention: Mike Slack). This information will be placed on a list for Diplomatic Security and the Reception Desk at the C-Street diplomatic entrance. Attendees must carry a valid photo ID with them. They should enter the building through the C-Street diplomatic entrance (22nd and C Streets, NW) where Department personnel will direct them to the security check point and on to the East auditorium.

A working lunch will be held at the Department. Limits on available seating may require attendance be limited only to DTAG members.

FOR FURTHER INFORMATION CONTACT: Mike Slack, DTAG Secretariat, U.S. Department of State, Office of Arms Transfer and Export Control Policy (PM/ATEC), Room 2422 Main State, Washington, DC 20520–2422. Phone: (202) 647–2882, fax (202) 647–4232.

Dated: March 20, 1998.

John P. Barker,

Deputy Assistant Secretary for Export Controls, Bureau of Political-Military Affairs.

[FR Doc. 98–8146 Filed 3–27–98; 8:45 am]

BILLING CODE 4710–25–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 USC Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget

(OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 28, 1997 [62 FR 63408].

DATES: Comments must be submitted on or before April 29, 1998.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, Office of Motor Carriers,(202) 366–4104, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Emergency Relief Funding Applications.

OMB Number: 2125–0525.

Type of Request: Extension of a currently approved collection.

Form(s): N/A.

Affected Public: State Highway Agencies.

Abstract: 23 U.S.C. 125 requires States to submit an application for emergency relief (ER) funds to the Federal Highway Administration. The ER funds are established for the repair or reconstruction of Federal-aid highways and Federal roads which are found to have suffered serious damage by natural disasters over a wide area or serious damage from catastrophic failures. The information is needed for the FHWA to fulfill its statutory obligations regarding funding determinations on emergency work to repair highway facilities. The requirements covering the FHWA ER program are contained in 23 CFR part 668.

Estimated Annual Burden Hours: 7,200.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Issued in Washington, DC, on March 25, 1998.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 98–8265 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD08–98–013]

Houston/Galveston Navigation Safety Advisory Committee Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of full committee meeting.

SUMMARY: The Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC) will meet to discuss waterway improvements, aids to navigation, current meters, and various other navigation safety matters affecting the Houston/Galveston area. The meeting will open to the public.

DATES: The meeting of HOGANSAC will be held on Thursday, May 7, 1998 from 9 a.m. to approximately 1 p.m. Members of the public may present written or oral statements at the meetings.

ADDRESSES: The HOGANSAC meeting will be held in the conference room of the Houston Pilots Office, 8150 South Loop East, Houston, Texas.

FOR FURTHER INFORMATION CONTACT: Captain Kevin Eldridge, Executive Director of HOGANSAC, telephone (713) 671–5199, or Commander Paula Carroll, Executive Secretary of HOGANSAC, telephone (713) 671–5164.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of the Meeting

Houston/Galveston Navigation Safety Advisory Committee (HOGANSAC). The tentative agenda includes the following:

(1) Opening remarks by the Committee Sponsor (RADM Pluta), Executive Director (CAPT Eldridge) and chairman (Tim Leitzel).

(2) Approval of the January 29, 1998 minutes.

(3) Report from the Waterways Subcommittee.

(4) Report from the Navigation Subcommittee.

(5) Status reports on Baytown Tunnel removal, Army Corps of Engineers' dredging projects, HL&P transmission tower protection, NOAA charting, VTS customer satisfaction survey, and comments and discussions from the floor.

Procedural

All meetings are open to the public. Members of the public may make oral presentations during the meetings.

Information on Services for the Handicapped

For information on facilities or services for the handicapped or to request special assistance at the meeting, contact the Executive Director as soon as possible.

Dated: March 23, 1998.

T.W. Josiah,

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

[FR Doc. 98–8257 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–15–M

DEAPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Department of Transportation, Federal Aviation Administration (DOT/FAA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) this notice announces that the information collection request described below has been forwarded to the Office of Management and Budget (OMB) for review. The FAA is requesting an immediate emergency clearance by April 20 in accordance with 5 CFR 1320.13. The following information describes the nature of the information collection and its expected burden.

SUPPLEMENTARY INFORMATION:

Title: Survey of Airport Use and Visitor Survey for Supplemental Evaluation Impact Statement (SEIS) associated with Cal Black Memorial Airport, San Juan County, Utah.

Need: In 1990, the Federal Aviation Administration (FAA) completed an Environmental Impact Statement for the Cal Black Memorial Airport, San Juan County, Utah. In 1991, the FAA completed the construction of the airport. The FAA is now responding the 10th Circuit Court of Appeals decision that indicated that the FAA should conduct a Supplemental Environmental

Impact Statement containing more on site survey and monitoring work.

Respondents: A possible 780 individuals.

Frequency: One time.

Burden: 139 hours (depending on number of individuals contacted).

FOR FURTHER INFORMATION CONTACT: Or to submit comments, you may contact Judy Street at the Federal Aviation Administration, Corporate Information Division, ABC–100, 800 Independence Avenue, SW., Washington, DC 20591. You can also submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, Attention FAA Desk Officer, 725 17th Street, NW., Washington, DC 20503.

Issued in Washington, DC on March 24, 1998.

Steven Hopkins,

Manager, Corporate Information Division, ABC–100.

[FR Doc. 98–8266 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent to Rule on Application (98–02–C–00–DCA) To Impose and use the Revenue From a Passenger Facility Charge (PFC) at the National Airport, Arlington, Virginia

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 National Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Terry Page, Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. James A. Wilding, General Manager of the Metropolitan Washington Airports Authority, at the following address: Metropolitan Washington Airports Authority, 44 Canal Center Plaza, Alexandria, Virginia 22314.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Metropolitan Washington Airports Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, 101 West Broad Street, Suite 300, Falls Church, Virginia 22046. 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 National Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 22, 1998, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Metropolitan Washington Airports Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 29, 1998.

The following is a brief overview of the application.

Application number: 98–02–C–00–DCA
Level of the proposed PFC: $3.00
Proposed charge effective date: April 1, 2002
Proposed charge expiration date: May 1, 2008
Total estimated PFC revenue: $120,027,100
Brief description of proposed projects:
—Construct Regional Carrier Concourse
—Rehabilitate Terminal A Apron
—Rehabilitate Terminal A Building
—Expand Terminal Connector
—IAD Concourse A Rehabilitation
—Construct a Pedestrian Tunnel between Main Terminal and B Concourse
—Interim Financing Cost

Class or classes of air carriers which the public agency has requested not be required to collect PGCs: Part 135 On Demand Air Taxis filing FAA Form 1800–31

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 Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application notice and other documents germane to the application in person at the Metropolitan Washington Airports Authority.

Issued in Jamaica, New York on March 18, 1998.

Thomas Felix,

Planning & Programming Branch, Airports Division, Eastern Region.

[FR Doc. 98–8273 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 98–3606]

Notice of Request for Extension of Currently Approved Information Collection; Develop and Submit Utility Accommodation Policies

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement in section 3506(c) (2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget(OMB) to renew the information collection that requires State highway agencies to develop and submit to FHWA a policy statement on the authority of utilities to use and occupy highway rights-of-way; the State's authority to regulate such use; and the policies and/or procedures employed for accommodating utilities within the rights-of-way of Federal-aid highway projects.

DATES: Comments must be submitted on or before May 29, 1998.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope. Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance

the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB renewal of this information collection.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, Office Engineering, Federal Highway Administration, U.S. Department of Transportation, HNG–10, Room 3134, 400 7th St., S.W. Washington, DC 20590–0001, telephone (202) 366–4104. Office hours are from 7:45 a.m. to 4:15 p.m., E.T., Monday thru Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Develop and Submit Utility Accommodation Policies.

OMB Number: 2125–0514.

Background: The FHWA has elected to fulfill its statutory obligations regarding utility accommodation by requiring the State highway agencies to develop and submit to FHWA a policy statement on the authority of utilities to use and occupy highway rights-of-way; the State's authority to regulate such use; and the policies and/or procedures employed for accommodating utilities within the rights-of-way of Federal-aid highway projects. Upon approval of the policy statement, the State highway agency may take any action required in accordance with the approved policy statement without case-by-case review by the FHWA. Utility accommodation policy statements have previously been approved by the FHWA for all the 50 State highway agencies and the highway agencies of the District of Columbia and the Commonwealth of Puerto Rico. Even so, these policy statements must periodically be reviewed to see if updating is necessary, and must periodically be updated to reflect policy changes.

Respondents: State Highway Agencies.

Average Burden Per Response: The average burden for updating an existing policy is 280 hours per response.

Estimated Total Annual Burden: The estimated total annual burden, based upon 10 updates per year, is 2,800 hours.

Frequency: The existing frequency is an initial submission of a utility accommodation policy. Once this is approved, updating is at a State's discretion. The FHWA recommends the State highway agencies periodically review their policies to see if updating is necessary but no specific frequency is mandated.

Authority: 23 U. S. C. 116, 109(l) and 315.

Issued on: March 19, 1998.

George S. Moore,

Associate Administrator for for Administration.

[FR Doc. 98–8140 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[FHWA Docket No. 98–3607]

Notice of Request for Extension of Currently Approved Information Collection; Eligibility Statement for Utility Adjustments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the requirement in section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, this notice announces the intention of the FHWA to request the Office of Management and Budget(OMB) to renew the information collection that requires a State or local highway agency to furnish a statement to the FHWA establishing its authority to pay for utility adjustments on Federal-aid projects.

DATES: Comments must be submitted on or before May 29, 1998.

ADDRESSES: All signed, written comments should refer to the docket number that appears in the heading of this document and must be submitted to the Docket Clerk, U.S. DOT Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. All comments received will be available for examination at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope. Interested parties are invited to send comments regarding any aspect of this information collection, including, but not limited to: (1) The necessity and utility of the information collection for the proper performance of the functions of the FHWA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB renewal of this information collection.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Scott, Office Engineering, Federal Highway Administration, U.S. Department of Transportation, HNG–10, Room 3134, 400 7th St., S.W. Washington, DC 20590–0001, telephone (202) 366–4104. Office hours are from 7:45 a.m. to 4:15 p.m., E.T., Monday thru Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Eligibility Statement for Utility Adjustments.

OMB Number: 2125–0515.

Background: The FHWA requires State (and in some cases local) highway agencies to submit to the FHWA a statement which establishes the highway agency's legal authority or obligation to pay for utility adjustments. The FHWA reviews this statement for acceptability. If the statement is found to be suitable, it then forms a basis for Federal-aid participation in utility relocation costs under the provisions of 23 U.S.C. 123. The State highway agencies have previously submitted statements covering the extent to which utility adjustments may be legally reimbursed under State law. These statements have previously been reviewed by the FHWA and a determination of suitability has been made. Hence, the only submissions required now would be for those instances where circumstances have modified (for example, a change in State statute) the extent to which utility adjustments are eligible for reimbursement by the State or those instances where a local highway agency's legal basis for payment of utility adjustments differs from that of the State.

Respondents: State highway agencies and local highway agencies.

Average Burden Per Response: The average burden for preparing and submitting an eligibility statement is 36 hours per response.

Estimated Total Annual Burden: The estimated total annual burden, based upon 5 submissions of eligibility statements per year, is 180 hours.

Frequency: The existing frequency is an initial submission of an eligibility statement by the highway agency. Once this is accepted by the FHWA, no further submissions are made unless circumstances change, such as enactment of a new statute. This is a relatively infrequent occurrence.

Authority: 23 U. S. C. 123.

Issued on: March 19, 1998.

George S. Moore,

Associate Administrator for Administration.

[FR Doc. 98–8141 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Application for Approval of Discontinuance or Modification of a Railroad Signal System or Relief From the Requirements of Title 49 Code of Federal Regulations Part 236

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 235 and 49 U.S.C. App. 26, the following railroads have petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of the signal system or relief from the requirements of 49 CFR Part 236 as detailed below.

Block Signal Application (BS–AP)–No. 3458

Applicant: Duluth, Missabe and Iron Range Railway Company, Mr. D.B. Moore, Chief Engineer, Engineering Department, 329 Second Street, Proctor, Minnesota 55810–1091

The Duluth, Missabe and Iron Range Railway Company seeks approval of the proposed modification of the traffic control system, on the single main track, at Bridge 19A, near Milepost 18.2, between BN Saunders and Ambridge, Wisconsin, on the Missabe Division, Interstate Branch, consisting of the replacement of the existing DC coded track circuit with a wheel count-based trap circuit, over the steel decked bridge.

The reasons given for the proposed changes are that the insulated bridge pads are approaching the end of their useful life, and steadily increasing annual costs for maintenance and train delays associated with troubleshooting and repairs. The pads are only available from an Australian supplier and full scale replacement cost is estimated at $65,000.

BS–AP–No. 3459

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation, Incorporated seeks approval of the proposed modification of the automatic block and traffic control signal systems, on the single main track and siding, near Washington, Indiana, between milepost BC–169 and milepost BC–174, Illinois/Indiana Subdivisions, Louisville Service Lane, consisting of the discontinuance and removal of absolute control signals 3L, 3R, 5RA, and 5L and automatic block signals 1713A and 1714; installation of new automatic block signals 1718A, 1718B, and 1719 at W.E. Washington; and installation of a new absolute control signal 5L and power-operated switch at the east end of Washington.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation and increase operating efficiency.

BS–AP–No. 3460

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation, Incorporated seeks approval of the proposed modification of the automatic block signal system, on the single main track and siding, near Rushville, Indiana, milepost BD–85.5, Indianapolis Subdivision, Louisville Division, consisting of the conversion of absolute control signal E2 to automatic signal 856; and discontinuance and removal of absolute control signals E1, W1, WA2, and WD2 associated with the previous removal of the N.K.P. railroad crossing at grade.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

BS–AP–No. 3461

Applicant: Long Island Railroad, Mr. Frederick E. Smith, P.E., Chief Engineer, Hillside Maintenance Complex, 93–59 183 Street, Hollis, New York 11423

The Long Island Railroad seeks approval of the proposed modification to Brook and Van Interlockings, in Brooklyn, New York, consisting of the discontinuance and removal of Brook Interlocking Signals 12R, 8L, 14R, 10L, and A1, and Van Interlocking Signal 8R, associated with numerous signal aspect changes and installation of a new crossover switch at Brook Interlocking.

The reason given for the proposed changes is to modernize and upgrade the existing facilities.

BS–AP–No. 3462

Applicant: CSX Transportation, Incorporated, Mr. R.M. Kadlick, Chief Engineer Train Control, 500 Water Street (S/C J–350), Jacksonville, Florida 32202

CSX Transportation, Incorporated seeks approval of the proposed discontinuance and removal of the automatic block signal system, on the single main track and sidings, between Howell, milepost 00H–323.5 and Mount Vernon, milepost 00H–344.9, Indiana, St. Louis Subdivision, Chicago Service Lane, a distance of approximately 21 miles, operate exclusively by a Direct Traffic Control Block system, and provide for the installation of inoperative approach signals at Howell and the Mt. Vernon rail crossing at grade.

The reason given for the proposed changes is to eliminate facilities no longer needed in present day operation.

Any interested party desiring to protest the granting of an application shall set forth specifically the grounds upon which the protest is made, and contain a concise statement of the interest of the Protestant in the proceeding. The original and two copies of the protest shall be filed with the Associate Administrator for Safety, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 within 45 calendar days of the date of publication of this notice. Additionally, one copy of the protest shall be furnished to the applicant at the address listed above.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, D.C. on March 17, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–8230 Filed 3–27–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–57 (Sub–No. 40X)]

Soo Line Railroad Company; Abandonment Exemption; In Hennepin County, MN

On March 10, 1998, Soo Line Railroad Company, operating under the trade name Canadian Pacific Railway (Soo Line), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its line of railroad known as the Hiawatha/Cedar Avenue Wye, extending from milepost 423.59±, near the eastern edge of Cedar Avenue to mileposts 423.26± and 423.21±, respectively, near the eastern edge of Hiawatha Avenue, a total distance of approximately 1 mile, in Hennepin County, MN. The line traverses U.S. Postal Service Zip Code 55407, and includes the station of Minneapolis at milepost 423.

The line does not contain federally granted rights-of-way. Any documentation in Soo Line's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by June 26, 1998. [1]

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than April 20, 1998. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–57 (Sub-No. 40X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Larry D. Starns, Esq., Leonard, Street and Deinard, 150 South 5th St., Suite 2300, Minneapolis, MN 55402.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: March 23, 1998.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–8118 Filed 3–27–98; 8:45 am]

BILLING CODE 4915–00–P

[1] Soo Line requests expedited handling of this petition to enable it to facilitate the removal of rail materials and structures from the right-of-way before the State of Minnesota resumes construction of Highway 55 on July 1, 1998. If the record supports an abandonment, we will attempt to accommodate Soo Line's request.

DEPARTMENT OF THE TREASURY

Customs Service

Announcement of National Customs Automation Program Test: Semi-Monthly Statement Processing Prototype

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to test the semi-monthly filing and statement processing program (semi-monthly processing), and invites all eligible importers to participate. Semi-monthly processing provides for periodic filing of entry summaries and payment of duties, taxes, and fees. Semi-monthly processing allows filers to go to a periodic statement and filing process, whereby all estimated duties, taxes, and fees along with the corresponding entry summaries for a semi-monthly period (fifteen days) are due seven days following the end of a fifteen day period. This notice provides a description of the semi-monthly processing prototype, outlines the evaluation methodology to be used, and sets forth the eligibility requirements to participate.

EFFECTIVE DATES: The semi-monthly processing prototype will commence no earlier than April 1998, will be implemented over an 18-month period, and will end when the periodic payment/statement feature of ACE is available through a NCAP/P test or otherwise in the semi-monthly prototype ports. Evaluations of the semi-monthly processing at the ports will be conducted periodically. All applications to participate in the prototype test must be received within 30 days of the date of this notice.

ADDRESSES: Applications should be addressed to Rosalyn McLaughlin-Nelson, U.S. Customs Service, ACE, 7501 Boston Blvd, Springfield, VA 22153.

FOR INFORMATION CONTACT: For inquiries regarding the specifics of the semi-monthly processing prototype contact Rosalyn McLaughlin-Nelson at (703)921–7494. Individual port contact persons will be provided to the participants at a later date. For inquiries regarding the eligibility of specific importers, contact Margaret Fearon, Process Analysis and Requirements Team (202) 927–1413.

SUPPLEMENTARY INFORMATION:

Background

Title VI of the North American Free Trade Agreement Implementation Act (the Act), Pub.L. 103–182, 107 Stat. 2057 (December 8, 1993), contains provisions pertaining to Customs Modernization (107 Stat. 2170). Subtitle B of Title VI establishes the National Customs Automation Program (NCAP)—an automated and electronic system for the processing of commercial importations. Pursuant to these provisions, Customs is in the process of developing a new commercial processing system, the Automated Commercial Environment (ACE). The ACE is being designed to support the new Trade Compliance processes. One of the main features of the ACE will be the periodic summary filing and periodic statements function, which will enable each account to pay duties, taxes, fees, and other payments owed using a periodic statement cycle. During the latter development of the NCAP/P the periodic summary filing and periodic statements functional capabilities will be fully integrated into the new ACE system. Semi-monthly processing using the current Automated Commercial System (ACS) will eventually cease as the ACE system is deployed nationwide.

For programs designed to evaluate existing and planned components of the National Customs Automation Program (NCAP), § 101.9(b) of the Customs Regulations (19 CFR 101.9(b)), implements the NCAP testing procedures. This test concerns an existing component of the NCAP relating to the electronic payment of duties, fees, and taxes, and is established pursuant to that regulation.

I. Development Methodology

The semi-monthly processing test will be monitored by an evaluation team consisting of representatives from the Customs Trade Compliance Redesign/ACE Project Team, the Office of Finance, Financial Systems Division, and Entry personnel from the semi-monthly processing prototype ports. This team will conduct periodic evaluations to monitor progress, resolve issues, and evaluate program effectiveness.

II. Eligibility Requirements

Customs will select a limited number of applicants for the semi-monthly

processing prototype. Applications will be accepted from all volunteers; however, priority consideration will be given to the following ranking factors:

1. Companies ranking within the top 379 companies importing by value (the top 379 represent approximately 50 percent of all imports by value);

2. Importers who are within the top 250 largest importers within each of Customs Primary Focus Industry (PFI) categories, which are:

a. Advanced Displays;
b. Agriculture;
c. Auto/Truck Parts;
d. Automobiles;
e. Bearings;
f. Circuit Boards;
g. Fasteners;
h. Footwear;
i. Manufacturing Equipment;
j. Steel Products;
k. Telecommunications;
l. Textiles and Flatgoods; and
m. Wearing Apparel;

3. Companies whose imports represent at least 50 percent PFI;

4. Companies that indicate they plan to maintain an average of at least 25 entries per month throughout the prototype period;

5. Companies that are scheduled or have completed a Customs Compliance Assessment; and

6. Companies that are capable of transmitting entry and entry summary data via the Automated Broker Interface (ABI) and make payment of estimated duties, taxes, and fees through the ABI/Automated Clearinghouse (ACH).

III. Procedures and Restrictions

For the semi-monthly processing prototype, the following restrictions will be placed on the importers:

1. Initially, only merchandise entered or withdrawn from a Customs bonded warehouse or Foreign Trade Zone for consumption at the following ports will be eligible for the semi-monthly processing prototype:

a. Seattle, Washington;
b. Detroit and Port Huron, Michigan;
c. Laredo and El Paso, Texas;
d. Buffalo and New York, New York;
e. Charleston, South Carolina;
f. Atlanta, Georgia;
g. Chicago, Illinois;
h. Miami, Florida;
i. Cleveland, Ohio; and
j. Los Angeles and San Francisco, California;

(If an applicant requests that an additional port or ports offer this program, and if Customs accepts the request, an amendment to this **Federal Register** Notice will be published).

2. Importers must have all transactions paid on an importer ACH statement at each semi-monthly prototype port;

3. Importers must pay only estimated duty, taxes, and fees on the semi-monthly statement;

4. Importers must have all entry summaries corresponding to all entries released during the first semi-monthly period placed on an ABI Statement and make payment via ACH on the seventh day following the end of the first semi-monthly period. Payment must be initiated at the same time the ABI statement is submitted to Customs;

5. For quota merchandise, the entry summary data must be filed electronically and any applicable visa must be filed prior to release of the merchandise. The payment must also be placed on the statement prior to release of merchandise;

6. Items deleted from a statement may not be added to another statement if quota status is already obtained and the new statement date is greater than 10 working days past the presentation date;

7. All current Entry requirements associated with quota processing will remain in effect;

8. Importers must have all entry summaries corresponding to all entries released during the second semi-monthly period placed on an ABI Statement and make payment via ACH on the seventh day following the end of the second semi-monthly period. Payment must be initiated at the same time the ABI statement is submitted to Customs;

9. For due dates that fall on a Saturday, Sunday or official federal holidays, importers must make payment on the next federal business day;

10. Importers must have final statements and required entry summaries submitted by the actual payment due date, *i.e.,* seven days after the semi-monthly (fifteen days) period;

11. The statement will only reflect payment of duties, taxes, and fees applicable to the merchandise released for the semi-monthly period. The following activities are examples of what cannot be included on the statement:

a. voluntary tenders;
b. supplemental duties;
c. bill payments resulting from rate advances;
d. protests;
e. refunds; and
f. drawbacks;

(These activities will be processed the way they are currently done, as individual transactions).

12. Payments received after the corresponding due dates will be considered late and will be subject to liquidated damages;

13. When a statement is paid late, the liquidated damages will be issued against all of the entry summaries paid on the statement; and

14. If an entry summary(s) is omitted from the statement and the statement is timely, then liquidated damages will be issued against the omitted entry summary(s). An omitted entry summary(s) cannot be paid individually. It must be placed on the next statement.

Customs Entry personnel at each of the prototype expansion ports will monitor entry activity to ensure that entries are appearing on the appropriate statement; ACH payments are authorized timely; and, entry summary(s) are not submitted late.

This prototype only applies to entries for consumption. Importers may enter merchandise in the semi-monthly processing prototype that is subject to quota, antidumping or countervailing duty, trade preference, or visa requirements. In addition, importers may withdraw such merchandise from a customs bonded warehouse or Foreign Trade Zone and enter it for consumption under the prototype. However, all entry requirements for these types of merchandise will remain in effect.

IV. Application

Importers that wish to participate in the semi-monthly processing prototype port expansion must submit a written application and include the following information:

1. Name(s) of the port(s) listed above where they intend to enter merchandise;

2. The importer of record numbers, including suffix;

3. Name and addresses of any customs brokers who will be filing data at each port on behalf of an importer/participant;

4. The approximate total number of entries per month expected to be processed at the ports designated; and

5. For applicants not already scheduled for or participating in a Customs Compliance Assessment, a statement in which the applicant indicates agreement to undergo and cooperate fully with a Customs Compliance Assessment.

Customs will notify each applicant in writing of their acceptance or nonselection to participate in this semi-monthly processing prototype, the port or ports where they may enter merchandise under this prototype, and will assign statement filing dates to the applicants. If an applicant is denied participation, the applicant may appeal in writing to Director, ACE Implementation and Outreach Team,

U.S. Customs Service, 7501 Boston Blvd., Springfield, VA 22153, within 10 days from applicant notification from Customs.

V. Semi-Monthly Processing

Under the semi-monthly processing procedures, cargo released during a fifteen day period will have estimated duty, taxes, fees, and summaries due seven days following the end of the period. Cargo released during the second fifteen or sixteen day period will have estimated duty, taxes, fees, and summaries due seven days following the end of the period. A separate statement will be needed for each collection processing port. For entry summaries paid via semi-monthly statement processing, the date used to calculate the interest due or payable pursuant to 19 U.S.C. 1505 will be seven days after the end of the fifteen/sixteen day cycle. Interest cost will be calculated based on the semiannual rate(s) established under sections 6621 and 6622 of the Internal Revenue Code of 1954 (26 U.S.C. 6621, 6622).

Under the prototype, Customs may assign a limited number of due dates for workload management purposes. The due dates that will be assigned are:

1. 1 thru 15, due 22; 16 to end of month, due 7.
2. 2 thru 16, due 23; 17 thru 1, due 8.
3. 3 thru 17, due 24; 18 thru 2, due 9.
4. 4 thru 18 due 25; 19 thru 3, due 10.

The due dates will be indicated in the letter of acceptance sent by Customs to the participant.

VI. Misconduct

If a prototype participant makes late or inadequate payments, or fails to exercise reasonable care in the execution of participant obligations and the filing of information regarding the admissibility of merchandise and declaring the classification, value, and rate of duty applicable to the merchandise, or otherwise fails to follow the procedures (outlined herein) or applicable laws and regulations, then the participant may be suspended from the semi-monthly processing prototype, and/or subjected to penalties, and/or liquidated damages, and/or other administrative sanctions. Customs has the discretion to suspend a prototype participant based on the determination that an unacceptable compliance risk exists. This suspension may be invoked at any time after acceptance in the prototype.

Any decision proposing suspension of a participant may be appealed in writing to the local Trade Compliance Process Owner within 15 days of the decision date. Such proposed suspension will apprise the participant of the facts or conduct warranting suspension. Should the participant appeal the notice of proposed suspension, the participant should address the facts or conduct charges contained in the notice and state how he does or will achieve compliance. However, in the case of willfulness or where public health interests or safety are concerned, the suspension may be effective immediately.

VII. Regulatory Provisions Suspended

As applicable, certain provisions within Parts 24, 111, 141, 142, 143, and 159 of the Customs Regulations (19 CFR Parts 24, 111, 141, 142, 143, and 159) will be suspended to allow for the periodic payment of duties, taxes, and fees.

Absent any specified alternate procedure, the current regulations apply.

VIII. Prototype Evaluation

Periodic evaluations will be conducted to determine effectiveness and accrued benefits to internal and external process operations. The following evaluation method has been suggested:

1. Evaluation questionnaire from both the prototype participants and Customs personnel; and
2. Reports to be run through the use of dataqueries.

Customs will request that participants be active in the evaluation of the semi-monthly test.

Dated: March 24, 1998.

Charles W. Winwood,

National Trade Compliance Process Owner.

[FR Doc. 98–8220 Filed 3–27–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Live Entry Requirement for Non-Automated Entry: Determination Not To Proceed

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: The U.S. Customs Service has been evaluating the feasibility of requiring "live entry" procedures for non-automated entries, referred to as the "Track One" proposal. After a significant amount of research was done by Customs into the operational and legal issues associated with "Track One" and consideration of comments solicited from Customs personnel and from the trade community, the Customs Trade Compliance Board of Directors has decided against proceeding with the implementation of "Track One" at the present time.

FOR FURTHER INFORMATION CONTACT: Inquiries should be directed to Ms. Brenda Brockman, 1300 Pennsylvania Avenue, Rm. 6.4B, Washington, DC 20229 (Telephone (202) 927–1507).

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Customs Modernization provisions of the North American Free Trade Agreement Implementation Act, which gives Customs the flexibility to tailor commercial operations to meet its needs and capabilities, Customs has undertaken an effort to redesign the entry process. Customs has proposed a four track entry process to better address current commercial practices. "Track One" would allow Customs to streamline the process used by non-automated commercial filers by requiring importers who file non-automated entry documents to file them as entry/entry summaries ("live entries"), along with all documentation and estimated duties, fees and taxes, prior to the release of the merchandise.

A significant amount of research was done by Customs into the operational and legal issues associated with adoption of Track One. On October 28, 1997, Customs published a document in the **Federal Register** (62 FR 55847) announcing a public meeting to discuss whether Customs should proceed with publication of a notice of proposed rulemaking to require all non-automated entry documents to be filed as entry/entry summaries before the release of merchandise. The document also solicited comments regarding a possible change. The public meeting was held on November 14, 1997. Upon completion of the research and consideration of the comments, a determination was made by the Customs Trade Compliance Board of Directors to forego steps toward the implementation of "Track One" at the present time.

Dated: March 24, 1998.

Charles W. Winwood,

Assistant Commissioner, Office of Strategic Trade.

[FR Doc. 98–8219 Filed 3–27–98; 8:45 am]

BILLING CODE 4820–02–U

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Spirits in Steel: The Art of Kalabari Masquerade" (See list [1]), imported from abroad for the temporary exhibition without profit within the United States , are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at The American Museum of Natural History, New York City from on or about April 21, 1998, through October 12, 1998, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: March 24, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–8247 Filed 3–27–98; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects on the list specified below, to be included in the exhibit, "The Arts of Korea" (See list [1]), imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lenders. I also determine that the exhibition or display of the listed exhibit objects at the Metropolitan Museum of Art, New York City, New York, from on or about June 2, 1998, to on or about January 23, 1999, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register.**

Dated: March 24, 1998.

Les Jin,

General Counsel.

[FR Doc. 98–8246 Filed 3–27–98; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Carol Epstein, Assistant General Counsel, at 202/619–6981, and the address is Room 700, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547–0001.

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Used Development at the VAMC, Long Beach, California

AGENCY: Department of Veterans Affairs.

ACTION: Notice of designation.

SUMMARY: The Secretary of the Department of Veterans Affairs is designating the Veterans Affairs Medical Center at Long Beach, California for an Enhanced-Use lease development. The Department intends to enter into a long-term lease of real property with the developer whose proposal will provide the most advantageous combination of services and revenue as consideration to the VA while retaining the therapeutic benefit of golf for patients at no cost to the Department.

FOR FURTHER INFORMATION CONTACT: Jacob Gallun, Office of Asset and Enterprise Development (189), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC, 20420, (202) 565–4307.

SUPPLEMENTARY INFORMATION: 38 U.S.C. Sec 8161 *et seq.* specifically provides that the Secretary may enter into an Enhanced-Use lease, if the Secretary determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property. This project meets these requirements.

Approved: March 19, 1998.

Togo D. West, Jr.,

Acting Secretary.

[FR Doc. 98–7892 Filed 3–27–98; 8:45 am]

BILLING CODE 8320–01–M

federal register

Monday
March 30, 1998

Part II

Department of Education

Authority to Grant Waivers of Certain Federal Programs in the Elementary and Secondary Education; Notice

DEPARTMENT OF EDUCATION

Authority to Grant Waivers of Certain Federal Programs in the Elementary and Secondary Education

ACTION: Notice of waivers granted by the U.S. Secretary of Education under the waiver authority in the Elementary and Secondary Education Act.

SUMMARY: The Elementary and Secondary Education Act (ESEA), as reauthorized in the Improving America's Schools Act (IASA) (Pub. L. 103–382); the Goals 2000: Educate America Act (Pub. L. 103–227); and the School-to-Work Opportunities Act (Pub. L. 103–329); authorizes the Secretary of Education to grant waivers of certain Federal program requirements in order to further effective innovation and improvements in teaching and learning in accordance with specific local needs. As of December 31, 1997, the U.S. Department of Education had approved 235 waiver requests under these waiver authorities. This notice, published as provided for in section 14401(g) of the ESEA, identifies the 71 waivers approved by the Department of Education from July 1, 1997 through December 31, 1997. All of these waivers were approved under the ESEA waiver authority.

Waivers Approved Under the General Waiver Authority in Section 14401 of the ESEA

(1) Applicant: Hawaii Department of Education on behalf of Iroquois Point Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA .
Duration of Waiver: Three years.
Date Granted: July 8, 1997.

(2) Applicant: Hawaii Department of Education on behalf of Queen Lydia Lili'uokalani Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 8, 1997.

(3) Applicant: Hawaii Department of Education on behalf of Abraham Lincoln Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 9, 1997.

(4) Applicant: Niles Township High Schools District No. 219, Skokie, IL.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 9, 1997.

(5) Applicant: Bond Community Unit No. 2, Greenville, IL.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 12, 1997.

(6) Applicant: Hawaii Department of Education on behalf of King Kamehameha III Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 12, 1997.

(7) Applicant: Rudd, Rockford, Marble Rock Schools, Rockford, IA.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 12, 1997.

(8) Applicant: Burrell School District, Lower Burrell, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 15, 1997.

(9) Applicant: Columbia Heights Public Schools, Columbia Heights, MN.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 15, 1997.

(10) Applicant: Cumberland County Schools, Fayetteville, NC
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 15, 1997.

(11) Applicant: Matteson School District 162, Park Forest, IL.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 15, 1997.

(12) Applicant: Pitt County Schools, Greenville, NC.
Requirement Waived: Sections 1113(b)(1)(A) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 15, 1997.

(13) Applicant: School Board of Polk County, Bartow, FL.
Requirement Waived: Section 1113(a)(3)(B) of the ESEA.
Duration of Waiver: Two years.
Date Granted: July 15, 1997.

(14) Applicant: South Dakota Department of Education and Cultural Affairs, Pierre, SD.
Requirements Waived: Sections 2206(b) as applied to 2203(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 15, 1997.

(15) Applicant: Wilson County Schools, Lebanon, TN.
Requirement Waived: Section 1113(a)(4) of the ESEA.
Duration of Waiver: One year.
Date Granted: July 15, 1997.

(16) Applicant: Des Moines Public Schools, Des Moines, IA.
Requirement Waived: Section 1113(a)(4) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 23, 1997.

(17) Applicant: Greensburg Salem School District, Greensburg, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 23, 1997.

(18) Applicant: Hawaii Department of Education on behalf of Pukalani Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 23, 1997.

(19) Applicant: Urbana School District No. 116, Urbana, IL.
Requirement Waived: Section 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 23, 1997.

(20) Applicant: School Board of Brevard County,Viera, FL.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 27, 1997.

(21) Applicant: Des Arc Public Schools, Des Arc, AR.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 27, 1997.

(22) Applicant: Granite School District, Salt Lake City, UT.
Requirement Waived: Section 1113(a)(4) of the ESEA.
Duration of Waiver: One year.
Date Granted: July 28, 1997.

(23) Applicant: Lakeland School District, Jermyn, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(1) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 28, 1997.

(24) Applicant: Ligonier Valley School District, Ligonier, PA.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 28, 1997.

(25) Applicant: Paris Special School District, Paris, TN.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 28, 1997.

(26) Applicant: Hawaii Department of Education on behalf of Kaumana School, Honolulu, HI.
Requirement Waived: Section

1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 29, 1997.
(27) Applicant: Hawaii Department of Education on behalf of Waiakeawaena Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 29, 1997.
(28) Applicant: Maine School Administrative District No. 57, Waterboro, ME.
Requirements Waived: Sections 1113(a)(2)(B), 1113(c)(1) and 1113(c)(2) of the ESEA. Duration of Waiver: Three years.
Date Granted: July 29, 1997.
(29) Applicant: Ohio County Schools, Hartford, KY.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: July 29, 1997.
(30) Applicant: Gaston County Schools, Gastonia, NC.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(31) Applicant: Hawaii Department of Education on behalf of Waiakea Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B).
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(32) Applicant: Haywood County Schools, Waynesville, NC.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(33) Applicant: Marion Community Schools, Marion, IN.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(34) Applicant: Marion County School System, Whitwell, TN.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(35) Applicant: Mesa Public Schools, Mesa, AZ.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(36) Applicant: Pasco School District, Pasco, WA.
Requirement Waived: 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(37) Applicant: School District No. 143, Midlothian, IL.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 15, 1997.
(38) Applicant: Caldwell County Schools, Princeton, KY.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 20, 1997.
(39) Applicant: Laurel County Public School District, London, KY.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 20, 1997.
(40) Applicant: Hawaii Department of Education on behalf of He'eia Elementary School, Honolulu, HI.
Requirement Waived: Section 1114(a)(1)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: August 22, 1997.
(41) Applicant: Cumberland County School System, Crossville, TN.
Requirement Waived: Section 1114(a)(1)(B).
Duration of Waiver: Three years.
Date Granted: September 22, 1997.
(42) Applicant: Kansas State Department of Education, Topeka, KS.
Requirement Waived: Section 1003(a) of the ESEA.
Duration of Waiver: One year.
Date Granted: September 26, 1997.
(43) Applicant: Moscow School District 281, Moscow, ID.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Two years.
Date Granted: September 29, 1997.
(44) Applicant: Alaska Department of Education, Juneau, AK.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(45) Applicant: Hawaii Department of Education, Honolulu, HI.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
I21Date Granted: October 6, 1997.
(46) Applicant: Iowa Department of Education, Des Moines, IA.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(47) Applicant: Massachusetts Department of Education, Malden, MA.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(48) Applicant: Missouri Department of Elementary and Secondary Education Jefferson City, MO.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through July 1998.
Date Granted: October 6, 1997.
(49) Applicant: Montana Office of Public Instruction, Helena, MT.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(50) Applicant: Nebraska Department of Education, Lincoln, NE.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(51) Applicant: New Jersey Department of Education, Trenton, NJ.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through August 1998.
Date Granted: October 6, 1997.
(52) Applicant: New Mexico Department of Education, Santa Fe, NM.
Requirements Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(53) Applicant: Wyoming Department of Education, Cheyenne, WY.
Requirement Waived: 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 6, 1997.
(54) Applicant: Lampeter Strasburg School District, Lampeter, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 8, 1997.
(55) Applicant: Minnesota Department of Children, Families, and Learning, St. Paul, MN.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 21, 1997.
(56) Applicant: North Dakota Department of Public Instruction, Bismarck, ND.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: October 21, 1997.
(57) Applicant: Ritenour School District, St. Louis, MO.
Requirements Waived: Sections

1113(a)(2)(B) and 1113(c)(2) of ESEA.
Duration of Waiver: One year.
Date Granted: October 22, 1997.

(58) Applicant: Pinellas County Schools, Largo, FL.
Requirement Waived: Section 1113(a)(4) of the ESEA.
Duration of Waiver: Three years.
Date Granted: October 27, 1997.

(59) Applicant: Fargo Public School District, No. 1, Fargo, ND.
Requirements Waived: Sections 1113(a)(2)(B) and 1113(c)(2) of the ESEA.
Duration of Waiver: Three years.
Date Granted: November 23, 1997.

(60) Applicant: Line Mountain School District, Herndon, PA.
Requirement Waived: Section 1113(a)(2)(B) of the ESEA.
Duration of Waiver: Three years.
Date Granted: November 23, 1997.

(61) Applicant: Arkansas Department of Education, Little Rock, AR.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: November 24, 1997.

(62) Applicant: Delaware Department of Education, Dover, DE.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: November 24, 1997.

(63) Applicant: Georgia Department of Education, Atlanta, GA.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: November 24, 1997.

(64) Applicant: Idaho Department of Education, Boise, ID.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: November 24, 1997.

(65) Applicant: Louisiana Department of Education, Baton Rouge, LA.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: November 24, 1997.

(66) Applicant: Nevada Department of Education, Carson City, NV.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through September 1998.
Date Granted: November 24, 1997.

(67) Applicant: Rhode Island Department of Education, Providence, RI.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: November 24, 1997.

(68) Applicant: Michigan Department of Education, Lansing, MI.
Requirements Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: December 17, 1997.

(69) Applicant: Tennessee Department of Education, Nashville, TN.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: December 17, 1997.

(70) Applicant: Virginia Department of Education, Richmond, VA.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: December 17, 1997.

(71) Applicant: Wisconsin Department of Public Instruction, Madison, WI.
Requirement Waived: Section 1111(b)(6) of the ESEA.
Duration of Waiver: Through May 1998.
Date Granted: December 17, 1997.

FOR FURTHER INFORMATION CONTACT: Kathryn Doherty at the Department's Waiver Assistance Line, (202) 401–7801. The Department's Waiver Guidance, which provides examples of waivers, explains the waiver authorities in detail, and describes how to apply for a waiver, is also available at this number. The Guidance and other information on waivers and flexibility also are available at the Department's World Wide Web site at http://www.ed.gov/flexibility.

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.

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Note: The official version of a document is the document published in the **Federal Register**.

Dated: March 17, 1998.

Marshall S. Smith,

Acting Deputy Secretary.

[FR Doc. 98–8251 Filed 3–27–98; 8:45 am]
BILLING CODE 4000–01–P

federal register

Monday
March 30, 1998

Part III

Department of Housing and Urban Development

24 CFR Part 0

Standards of Conduct; Conforming Changes; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 0

[Docket No. FR–3331–F–05]

RIN 2501–AB55

Standards of Conduct; Conforming Changes

AGENCY: Office of the Secretary.

ACTION: Final rule.

SUMMARY: This final rule removes §§ 0.2 and 0.3 of 24 CFR, leaving only § 0.1, which provides cross-references to the executive branch-wide requirements at 5 CFR parts 2634 and 2635, and to the Department's supplemental regulation at 5 CFR part 7501. Sections 0.2 and 0.3 are redundant and unnecessary because they repeat requirements contained in 5 CFR 7501.

DATES: *Effective Date:* April 29, 1998.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel, Ethics Law Division, at (202) 708–3815, or Sam E. Hutchinson, Associate General Counsel, Office of Human Resources Law, (202) 708–0888; 451 Seventh Street, SW, Washington, DC 20410. Hearing or speech-impaired individuals may call HUD's TTY number (202) 708–3259. (Telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION:

I. Background

On April 5, 1996 (61 FR 15350), the Department published a final rule that provided for removal of all of the then-existing provisions in the Department's old Standards of Conduct regulation at 24 CFR part 0, and their replacement with a single section that provides a cross-reference to 5 CFR parts 2634 and 2635, effective May 6, 1996. To prevent an untimely lapse in enforcement authority for the two sections of 24 CFR part 0 that had temporarily remained in effect pursuant to an extended grace period in the Standards—§ 0.735–203 regarding outside employment and other activities, and § 0.735–204 regarding financial interests—the Department published a correction to the final rule on May 1, 1996 (61 FR 19187), effective May 6, 1996, preserving those two sections at 24 CFR 0.2 and 0.3.

On July 9, 1996 (61 FR 36246), HUD issued a final rule establishing uniform standards of ethical conduct at 5 CFR part 7501 for employees of the Department to supplement the Standards of Ethical Conduct for Employees of the Executive Branch issued by the Office of Government Ethics (OGE). The preamble to the July 9, 1996 rule stated that upon its effective date, the Department would amend 24 CFR part 0 to remove the temporarily preserved sections regarding outside employment (§ 0.2) and financial interests (§ 0.3). Accordingly, HUD is here removing its superseded Standards of Conduct at 24 CFR 0.2 and 0.3.

II. Findings and Certifications

Justification for Final Rulemaking

In general, the Department publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. However, part 10 does provide for exceptions from that general rule where the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest." (24 CFR 10.1) The Department finds that good cause exists to publish this rule for effect without first soliciting public comment. Prior public procedure is unnecessary because this rule only makes a conforming change to 24 CFR part 0 to remove provisions that have been superseded by revised requirements at 5 CFR part 7501.

Regulatory Flexibility Act

The Secretary in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this rule, and in so doing certifies that this rule would not have a significant economic impact on a substantial number of small entities because it would affect only Federal employees.

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(1) of the HUD regulations, the policies and procedures contained in this rule do not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction, or construction materials, manufactured housing or occupancy, and therefore, are categorically excluded from the requirements of the National Environmental Policy Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the states, or on the distribution of power and responsibilities among the various levels of government. Specifically, this rule is only directed toward Federal employees and would not alter the established roles of HUD and the States and local governments. As a result, the rule is not subject to review under the order.

List of Subjects in 24 CFR Part 0

Administrative practice and procedure, Conflict of interests.

Accordingly, for the reasons set forth in the preamble, the Department of Housing and Urban Development is amending title 24 of the Code of Federal Regulations by revising part 0, to read as follows:

PART 0—STANDARDS OF CONDUCT

1. The authority citation for part 0 continues to read as follows:

Authority: 5 U.S.C. 7301; 42 U.S.C. 3535(d).

§§ 0.2 and 0.3 [Removed]

2. Sections 0.2 and 0.3 are removed.

Dated: March 23, 1998.

Andrew M. Cuomo,

Secretary.

[FR Doc. 98–8222 Filed 3–27–98; 8:45 am]

BILLING CODE 4210–32–P

federal register

Monday
March 30, 1998

Part IV

Department of Housing and Urban Development

24 CFR Part 58

Technical Amendments to HUD's Regulations Governing Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 58

[Docket No. FR–4138–F–01]

RIN: 2501–AC32

Technical Amendments to HUD's Regulations Governing Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule.

SUMMARY: On April 30, 1996 (61 FR 19120), HUD published a final rule streamlining and updating 24 CFR part 58 in its entirety. Part 58 provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting environmental reviews in accordance with: the National Environmental Policy Act of 1969 (NEPA); the NEPA implementing regulations of the Council on Environmental Quality; and other NEPA related Federal laws and authorities. This final rule makes several technical and clarifying amendments to the April 30, 1996 final rule.

DATES: *Effective Date:* April 29, 1998.

FOR FURTHER INFORMATION CONTACT: Richard H. Broun, Director, Office of Community Viability, Room 7240, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410. For telephone communication, contact Fred Regetz, Environmental Review Division at (202) 708–1201, extension 4465. (This telephone number is not toll-free.) Hearing or speech-impaired individuals may access this telephone number via TTY by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

I. The April 30, 1996 Final Rule

On April 30, 1996 (61 FR 19120), HUD published a final rule revising 24 CFR part 58 in its entirety. Part 58 provides instructions and guidance to recipients of HUD assistance and other responsible entities for conducting environmental reviews in accordance with: (1) the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) (NEPA); (2) the NEPA implementing regulations of the Council on Environmental Quality; and (3) other NEPA related Federal laws and authorities. The April 30, 1996 final rule streamlined, updated, and improved these regulations. With the exception of §§ 58.1(b)(6)(i) and 58.2(a)(5)(v)(A), the April 30, 1996 final rule became effective on May 30, 1996. These two paragraphs, which pertain to public housing development and modernization programs, became effective on October 14, 1996. The April 30, 1996 final rule described in detail the amendments to 24 CFR part 58.

II. This Final Rule

This final rule makes several technical and clarifying changes to the April 30, 1996 final rule. These revisions are as follows:

1. This final rule revises the heading to § 58.1 so that it will more accurately reflect the subject matter of the section.

2. The final rule amends § 58.6 (Other requirements) by correcting a typographical error. Section 58.6 erroneously cites the requirements of § 58.34(a)(11). This rule corrects the error by properly citing § 58.34(a)(12). Sections 58.6(a)(1)(ii) and 58.6(a)(2) are revised to indicate that the requirement to purchase flood insurance in a special flood hazard area applies where a community is participating in the National Flood Insurance Program. While community participation and the purchase of flood insurance is a requirement generally, a community's participation in the flood insurance program is not a condition of Federal assistance during the first year after the Federal Emergency Management Agency notifies the community that it contains special flood hazard areas. During this limited period, HUD assistance may be approved for the properties in a special flood insurance area despite the community's initial nonparticipation in the program and the resulting unavailability of flood insurance. A new paragraph (b) is added to state explicitly the limitations on use of HUD disaster assistance that are imposed by section 582 of the National Flood Insurance Reform Act of 1994 when a person who had previously received Federal disaster assistance fails to obtain or maintain flood insurance.

3. The rule removes the last sentence of § 58.10, which redundantly states that the "provisions of the CEQ [Council on Environmental Quality] regulations in 40 CFR parts 1500 through 1508 are applicable to" part 58.

4. Section 58.14 currently permits State, Federal and local agencies to participate or act in a joint lead or cooperating agency capacity in preparing joint environmental impact statements. This final rule provides permissive authority to prepare joint environmental assessments.

5. Section 58.34(a)(10) is revised to clarify that the imminent threats that would trigger the exemption are imminent threats to public safety including those resulting from physical deterioration.

6. Section 58.35(b)(5) is revised to replace an erroneous reference to new dwelling units with a reference to dwelling units under construction. New units not already under construction were never intended to be covered under this categorical exclusion.

7. Sections 58.47(a) and (b) have been revised for clarity. Section 58.47(b)(1) makes clear that, if the stated circumstances are met and a FONSI has already been published, then no further FONSI notice is required to be published.

8. The April 30, 1996 final rule removed several obsolete or unnecessarily codified sections from 24 CFR part 58. For example, several of these sections did not set forth any regulatory requirements, but were merely being held in reserve. The removal of these provisions, however, resulted in the discontinuous numbering of the sections comprising part 58. Since publication of the April 30, 1996 final rule, HUD has received several questions regarding the status of the missing sections. HUD wishes to clarify that 24 CFR part 58 (as amended by this final rule) describes *all* the regulatory requirements for entities assuming HUD environmental responsibilities.

III. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). In addition, part 10 permits publishing an interpretative rule for effect without prior public procedure.

HUD finds that in this case prior public procedure is unnecessary. In general, the amendments made by this final rule update and clarify the policies and procedures contained in the April 30, 1996 final rule. As noted above, § 58.14 has been revised to permit the same type of joint effort among Federal, State, and local agencies in preparing environmental assessments as currently exists in preparing environmental impact statements. Prior public comment is unnecessary for this change because it is clearly consistent with the underlying policy of the current section to further cooperation among these agencies and it is permissive authority.

The new § 58.6(b) is an interpretative rule which explains a limitation imposed by section 582 of the National Flood Insurance Reform Act of 1994 on the use of HUD disaster assistance in a special flood hazard area.

IV. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this final rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule is concerned solely with the review procedures of entities assuming HUD environmental responsibilities. It effects no changes in the current relationships between the Federal government, the States and their political subdivisions.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule makes several technical and clarifying changes to the April 30, 1996 final rule. This final rule will have no adverse or disproportionate economic impact on small entities.

Unfunded Mandates Reform Act

The Secretary has reviewed this rule before publication and by approving it certifies, in accordance with the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), that this rule does not impose a Federal mandate that will result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

List of Subjects in 24 CFR Part 58

Environmental protection, Community development block grants, Environmental impact statements, Grant programs—housing and community development, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 58 is amended as follows:

PART 58—ENVIRONMENTAL REVIEW PROCEDURES FOR ENTITIES ASSUMING HUD ENVIRONMENTAL RESPONSIBILITIES

1. The authority citation for 24 CFR part 58 continues to read as follows:

Authority: 12 U.S.C. 1707 *note*; 42 U.S.C. 1437o(i)(1) and (2), 1437x, 3535(d), 3547, 4332, 4852, 5304(g), 11402, and 12838; E.O. 11514, 3 CFR, 1966–1970, Comp., p. 902, as amended by E.O. 11991, 3 CFR, 1977 Comp., p. 123.

2. In § 58.1, revise the section heading to read as follows:

§ 58.1 Purpose and applicability.

* * * * *

3. Amend § 58.6 as follows:

a. In the introductory text, remove the term "§ 58.34(a)(11)" and add, in its place, the term "§ 58.34(a)(12)";

b. Revise paragraph (a)(1)(ii);

c. Revise paragraph (a)(2);

d. Redesignate paragraph (b) and (c) as paragraphs (c) and (d), respectively; and

e. Add a new paragraph (b).

§ 58.6 Other requirements.

* * * * *

(a) * * *

(1) * * *

(ii) Where the community is participating in the National Flood Insurance Program, flood insurance protection is to be obtained as a condition of the approval of financial assistance to the property owner.

(2) Where the community is participating in the National Flood Insurance Program and the recipient provides financial assistance for acquisition or construction purposes (including rehabilitation) for property located in an area identified by FEMA as having special flood hazards, the responsible entity is responsible for assuring that flood insurance under the National Flood Insurance Program is obtained and maintained.

* * * * *

(b) Under section 582 of the National Flood Insurance Reform Act of 1994, 42 U.S.C. 5154a, HUD disaster assistance that is made available in a special flood hazard area may not be used to make a payment (including any loan assistance payment) to a person for repair, replacement or restoration for flood damage to any personal, residential or commercial property if:

(1) The person had previously received Federal flood disaster assistance conditioned on obtaining and maintaining flood insurance; and

(2) The person failed to obtain and maintain the flood insurance.

* * * * *

4. Revise § 58.10 to read as follows:

§ 58.10 Basic environmental responsibility.

In accordance with the provisions of law cited in § 58.1(b), the responsible entity must assume the environmental responsibilities for projects under programs cited in § 58.1(b), and in doing so must comply with the provisions of NEPA and the CEQ regulations contained in 40 CFR parts 1500 through 1508, including the requirements set forth in this part. This includes responsibility for compliance with the applicable provisions and requirements of the Federal laws and authorities specified in § 58.5.

5. Revise § 58.14 to read as follows:

§ 58.14 Interaction with State, Federal and non-Federal entities.

A responsible entity shall consult with appropriate environmental agencies, State, Federal and non-Federal entities and the public in the preparation of an EIS, EA or other environmental reviews undertaken under the related laws and authorities cited in § 58.5 and § 58.6. The responsible entity must also cooperate with other agencies to reduce duplication between NEPA and comparable environmental review requirements of the State (see 40 CFR 1506.2(b) and (c)). The responsible entity must prepare its EAs and EISs so that they comply with the environmental review requirements of both Federal and State laws unless otherwise specified or provided by law. State, Federal and local agencies may participate or act in a joint lead or cooperating agency capacity in the preparation of joint EISs or joint environmental assessments (see 40 CFR 1501.5(b) and 1501.6). A single EIS or EA may be prepared and adopted by multiple users to the extent that the review addresses the relevant environmental issues and there is a written agreement between the cooperating agencies which sets forth the coordinated and overall responsibilities.

6. Revise paragraph (a)(10) of § 58.34 to read as follows:

§ 58.34 Exempt activities.

(a) * * *

(10) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair, or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;

* * * * *

7. Revise paragraph (b)(5) of § 58.35 to read as follows:

§ 58.35 Categorical exclusions.

* * * * *

(b) * * *

(5) Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buydowns, and similar activities that result in the transfer of title.

* * * * *

8. In § 58.47, revise the introductory text of paragraph (a) and paragraph (b) to read as follows:

§ 58.47 Re-evaluation of environmental assessments and other environmental findings.

(a) A responsible entity must re-evaluate its environmental, findings to determine if the original findings are still valid, when:

* * * * *

(b)(1) If the original findings are still valid but the data or conditions upon which they were based have changed, the responsible entity must affirm the original findings and update its ERR by including this re-evaluation and its determination based on its findings. Under these circumstances, if a FONSI notice has already been published, no further publication of a FONSI notice is required.

(2) If the responsible entity determines that the original findings are no longer valid, it must prepare an EA or an EIS if its evaluation indicates potentially significant impacts.

(3) Where the recipient is not the responsible entity, the recipient must inform the responsible entity promptly of any proposed substantial changes under paragraph (a)(1) of this section, new circumstances or environmental conditions under paragraph (a)(2) of this section, or any proposals to select a different alternative under paragraph (a)(3) of this section, and must then permit the responsible entity to re-evaluate the findings before proceeding.

§ 58.60 [Amended]

9. In § 58.60(e), remove the term "1502.2" and add, in its place, the term "1505.2".

Dated: March 13, 1998.

Andrew M. Cuomo,

Secretary.

[FR Doc. 98–8221 Filed 3–27–98; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1997. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1996 to June 30, 1997. The volume issued July 1, 1996, should be retained.

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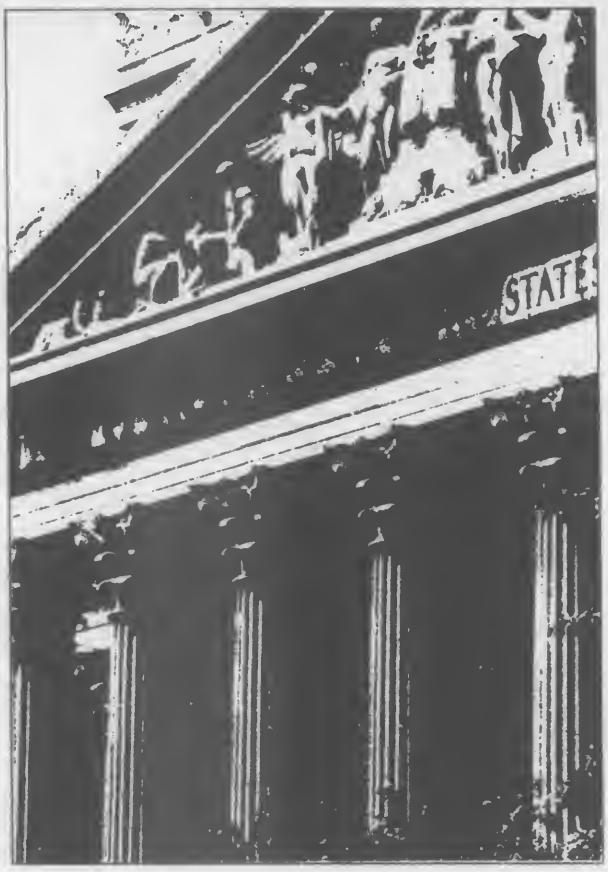

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