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Monday
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Monday
February 9, 1998

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Contents

Federal Register

Vol. 63, No. 26

Monday, February 9, 1998

Separate Parts In This Issue

Reader Aids
Additional information, including a list of telephone numbers, finding aids, reminders, and a list of Public Laws appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Federal Register
Vol. 63, No. 26
Monday, February 9, 1998

Presidential Documents

Title 3—

The President

Presidential Determination No. 98–12 of January 28, 1998

Determination Pursuant to Section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118)

Memorandum for the Secretary of State

Pursuant to section 523 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1998 (Public Law 105–118), I hereby certify that withholding from international financial institutions and other international organizations and programs funds appropriated or otherwise made available pursuant to that Act is contrary to the national interest of the United States.

You are authorized and directed to publish this determination in the **Federal Register**.

William J. Clinton

THE WHITE HOUSE,
Washington, January 28, 1998.

[FR Doc. 98–3363
Filed 2–6–98; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

Federal Register
Vol. 63, No. 26
Monday, February 9, 1998

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–A113

Prevailing Rate Systems; Redefinition of the Orlando, FL, Appropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management (OPM) is issuing an interim rule to redefine Orange, Osceola, Seminole, and Volusia Counties, FL, from the Orlando, FL, Federal Wage System (FWS) appropriated fund wage area to the Jacksonville, FL, FWS wage area. March 11, 1998.

DATES: This interim rule is effective March 11, 1998. Employees in the Orlando wage area will be transferred to the Jacksonville wage schedule on the first day of the first applicable pay period beginning on or after March 11, 1998. Comments must be received on or before March 11, 1998.

ADDRESSES: Send or deliver comments to Donald J. Winstead, Assistant Director for Compensation Administration, Workforce Compensation and Performance Service, Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415, or FAX: (202) 606–0824.

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

SUPPLEMENTARY INFORMATION: The Office of Personnel Management is issuing the second of two interim rules to abolish and redefine the Orlando, FL, appropriated fund wage area. The Orlando wage area is currently composed of Orange, Osceola, Seminole, and Volusia Counties in Florida. Because of the pending closure of the Orlando Naval Training Station, the Department of Defense (DOD), the lead agency for the Orlando wage area, was unable to conduct the wage survey that was scheduled to begin in the Orlando wage area in September 1997. An earlier interim rule removed the requirement that local wage surveys be conducted in the Orlando wage area (62 FR 51759). This interim rule redefines the four counties of the Orlando wage area to the Jacksonville, FL, wage area's area of application.

Section 532.211 of title 5, Code of Federal Regulations, lists the following criteria for consideration when OPM defines FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

An examination of the above criteria found that the distance criterion favored defining Orange, Osceola, Seminole, and Volusia Counties to the Cocoa Beach-Melbourne, FL, wage area. However, the similarities in overall population and employment criteria favored defining the four counties to the Jacksonville wage area more than to the Cocoa Beach-Melbourne wage area. The other regulatory criteria were indeterminate. An additional factor taken into consideration in the review of Orange, Osceola, Seminole, and Volusia Counties was the fact that wage schedules for FWS employees who are stationed in the Cocoa Beach-Melbourne wage area are constructed predominantly from wage data obtained from private industrial establishments working on Federal contracts for the National Aeronautics and Space Administration that have little similarity to the private industrial establishments found in the Orlando wage area. Wage schedules for FWS employees who are stationed in the Jacksonville wage area are constructed from wage data obtained from a broader range of private industrial establishments that appear to be more similar to the private industrial establishments generally found in the Orlando wage area. On balance, the regulatory criteria for defining FWS wage areas show that the four counties of the Orlando wage area are a better fit with the Jacksonville wage area than with the Cocoa Beach-Melbourne wage area. For this reason, OPM is moving Orange, Osceola, Seminole, and Volusia Counties to the Jacksonville wage area.

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

Waiver of Notice of Proposed Rulemaking and Delayed Effective date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because FWS employees who are stationed in the Orlando wage area would have received wage adjustments in November 1997 had DOD been able to continue conducting local wage surveys in the Orlando wage area. This interim rule will allow those employees to receive wage adjustments as soon as is practicable with an appropriate period of time for agencies to implement the change.

Regulatory Flexibility Act

I certify that these regulations will not have 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 C to Subpart B of Part 532 [Amended]

2. Appendix C to subpart B is amended under the State of Florida by removing the wage area listing for the Orlando wage area and by revising the Jacksonville wage area listing to read as follows:

Appendix C to Subpart B of part 532—Appropriated Fund Wage and Survey Areas

* * * * *

Florida

* * * * *

Jacksonville

Survey Area

Florida:
Alachua
Baker
Clay
Duval
Nassau
St. Johns

Area of Application. Survey Area Plus

Florida:
Bradford
Citrus
Columbia
Dixie
Flagler
Gilchrist
Hamilton
Lafayette
Lake
Levy
Madison
Marion
Orange
Osceola
Putnam
Seminole
Sumter
Suwanee
Taylor
Union
Volusia
Georgia:
Brantley
Camden
Charlton
Glynn
Pierce

* * * * *

[FR Doc. 98–2904 Filed 2–8–98: 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 9

[Docket No. 98–02]

RIN 1557–AB63

Fiduciary Activities of National Banks

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its rules governing national banks' fiduciary activities by issuing an interpretive ruling to clarify the types of investment advisory activities that come within the scope of these rules. This action will assist banks in determining the extent to which their investment advisory activities are subject to the OCC's fiduciary rules.

EFFECTIVE DATE: March 11, 1998.

FOR FURTHER INFORMATION CONTACT: Andrew Gutierrez, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; Lisa Lintecum, Director, Asset Management, (202) 874–5419; Dean Miller, Special Advisor, Fiduciary Activities, (202) 874–4852; Laurie Edlund, National Bank Examiner, Fiduciary Activities, (202) 874–3828; Donald Lamson, Assistant Director, Securities and Corporate Practices Division, (202) 874–5210, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

1996 Revision of 12 CFR Part 9

On December 30, 1996, the OCC issued a final rule revising 12 CFR part 9, effective January 29, 1997 (61 FR 68543). Among other changes, the final rule revised the terms that specify the types of activities governed by part 9. In particular, the final rule replaced the former regulation's terms "fiduciary" and "managing agent" with the term "fiduciary capacity," found at § 9.2(e). Under the revised part 9, if a national bank acts in a fiduciary capacity while engaging in an activity, then part 9 governs that activity.

One of the fiduciary capacities set forth in § 9.2(e) is "investment adviser, if the bank receives a fee for its investment advice." The concept of investment adviser for a fee is new to part 9, and the OCC's addition of this term to the list of fiduciary capacities raised questions from the banking industry about what activities entail providing investment advice for a fee.

Interpretive Letter #769

In response to these inquiries, the OCC issued Interpretive Letter #769 (January 28, 1997). In that interpretive letter, the OCC clarified that "investment adviser" generally means a national bank that is providing advice or recommendations concerning the purchase or sale of specific securities, such as a national bank engaged in portfolio advisory and management activities (including acting as investment adviser to a mutual fund). Moreover, the OCC explained that the qualifying phrase "if the bank receives a fee for its investment advice" excludes from part 9's coverage those activities in which investment advice is merely incidental to other services. Generally, if a national bank receives a fee for providing services, and a significant portion of that fee is attributable to the provision of investment advice (*i.e.*, advice or recommendations concerning the purchase or sale of specific securities), then part 9 governs that activity. In effect, the OCC explained, the new term "fiduciary capacity" generally includes those activities that the former regulation covered and does not capture additional lines of business.

In the interpretive letter, the OCC indicated that it generally will consider full-service brokerage services to involve investment advice for a fee only if a non-bank broker engaged in that activity is considered an investment adviser under the Investment Advisers Act of 1940 (Advisers Act) (15 U.S.C. 80b–1 *et seq.*).[1] The Advisers Act, at section 202(a)(11)(C) (15 U.S.C. 80b–2(a)(11)(C)), excludes from its definition of investment adviser any broker or dealer whose performance of investment advisory services is solely incidental to the conduct of its business as a broker or dealer and who receives no special compensation for providing investment advice.

The OCC also addressed in the interpretive letter whether certain other activities came within the scope of part 9.

Proposed Rule

On July 9, 1997, the OCC proposed to add a new interpretation to part 9, at § 9.101, codifying the clarification contained in Interpretive Letter #769 (62 FR 36746). The OCC invited comments on any aspect of that proposal, including suggestions on whether any specific activities should be added to or removed from the list of activities that do not generally entail providing investment advice for a fee, found at proposed § 9.101(b)(2) (the "list of excluded activities").

Summary of Comments and Final Rule

The OCC received seven comment letters in response to the July 9, 1997, proposal. Six of the seven commenters explicitly supported the proposal, and no commenter opposed it. Several of the commenters suggested minor modifications to the list of excluded activities.

[1] Banks are excluded from the Advisers Act's definition of investment adviser. 15 U.S.C. 80b–2(a)(11)(A).

One commenter recommended that the OCC modify three of the items on the list of excluded activities, proposed § 9.101(b)(2) (ii), (iv), and (v), to mirror the more specific language in OCC Bulletin 97–22 (May 15, 1997) (the OCC's Q&As on revised 12 CFR part 9). The OCC agrees the additional detail in the OCC Bulletin is helpful, and thus is following that recommendation.

Another commenter recommended that the OCC add to the list of excluded activities, advice or information with respect to an employee benefit plan governed by the Employee Retirement Income Security Act of 1974 (ERISA) that is not deemed "investment advice" under ERISA. The OCC agrees that, with respect to employee benefit plans, ERISA should govern whether or not an activity involves "investment advice" and, more generally, whether or not an activity is fiduciary in nature. Thus, with respect to employee benefit plans, whether a national bank is considered a fiduciary under ERISA determines whether it is a fiduciary under part 9. The OCC believes that this principle is understood generally, and thus is not addressing the issue in this final rule.

A third commenter recommended that the OCC add estate planning and retirement counseling services to the list of excluded activities. The OCC believes that estate planning and retirement counseling can vary widely in the types of advice and services offered and, in some cases, may involve investment advice within the scope of part 9. Consequently, the OCC is not including the recommended exemption, but rather will address these activities on a case-by-case basis as questions arise.

A fourth commenter recommended that the OCC modify proposed § 9.101(b)(2)(ii)—the paragraph that excludes investment advice authorized under 12 U.S.C. 24(Seventh) as an incidental power necessary to carry on the business of banking—to limit that exclusion to situations that do not involve the exercise of substantial investment discretion. However, under part 9, if a bank exercises investment discretion, it is acting in a fiduciary capacity, as defined at § 9.2(e). Whether or not the bank is also providing investment advice for a fee does not affect the fact that it is acting in a fiduciary capacity. Consequently, the OCC believes that the recommended modification is not necessary.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC certifies that this final rule will not have a significant economic impact on a substantial number of small entities in accord with the spirit and purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Accordingly, a regulatory flexibility analysis is not required. This final rule merely clarifies the scope of the 12 CFR part 9, and does not add any new requirements.

Executive Order 12866

The Office of Management and Budget has concurred with the OCC's determination that this final rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

The OCC has determined that this final rule will not result in expenditures by state, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, a budgetary impact statement is not required under section 202 of the Unfunded Mandates Reform Act of 1995. This final rule merely clarifies the scope of 12 CFR part 9 and does not add any new requirements.

List of Subjects in 12 CFR Part 9

Estates, Investments, National banks, Reporting and recordkeeping requirements, Trusts and trustees.

Authority and Issuance

For the reasons set out in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 9—FIDUCIARY ACTIVITIES OF NATIONAL BANKS

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

Authority: 12 U.S.C. 24(Seventh), 92a, and 93a; 15 U.S.C. 78q, 78q–1, and 78w.

2. A new § 9.101 is added under the undesignated centerheading "**Interpretations**" to read as follows:

§ 9.101 Providing investment advice for a fee.

(a) *In general.* The term "fiduciary capacity" at § 9.2(e) is defined to include "investment adviser, if the bank receives a fee for its investment advice." In other words, if a bank is providing investment advice for a fee, then it is acting in a fiduciary capacity. For purposes of that definition, "investment adviser" generally means a national bank that provides advice or recommendations concerning the purchase or sale of specific securities, such as a national bank engaged in portfolio advisory and management activities (including acting as investment adviser to a mutual fund). Additionally, the qualifying phrase "if the bank receives a fee for its investment advice" excludes those activities in which the investment advice is merely incidental to other services.

(b) *Specific activities*—(1) *Full-service brokerage.* Engaging in full-service brokerage may entail providing investment advice for a fee, depending upon the commission structure and specific facts. Full-service brokerage involves investment advice for a fee if a non-bank broker engaged in that activity is considered an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*).

(2) *Activities not involving investment advice for a fee.* The following activities generally do not entail providing investment advice for a fee:

(i) Financial advisory and counseling activities, including strategic planning of a financial nature, merger and acquisition advisory services, advisory and structuring services related to project finance transactions, and providing market economic information to customers in general;

(ii) Client-directed investment activities (*i.e.*, the bank has no investment discretion) where investment advice and research may be made available to the client, but the fee does not depend on the provision of investment advice;

(iii) Investment advisory activities incidental to acting as a municipal securities dealer;

(iv) Real estate management services provided to other financial institutions;

(v) Real estate consulting services, including acting as a finder in locating, analyzing, and making recommendations regarding the purchase of property, and making recommendations concerning the sale of property;

(vi) Advisory activities concerning bridge loans;

(vii) Advisory activities for homeowners' associations;

(viii) Advisory activities concerning tax planning and structuring; and

(ix) Investment advisory activities authorized by the OCC under 12 U.S.C. 24(Seventh) as incidental to the business of banking.

Dated: February 3, 1998.

Eugene A. Ludwig,

Comptroller of the Currency.

[FR Doc. 98–3191 Filed 2–6–98; 8:45 am]

BILLING CODE 4810–33–P

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R–0998]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of adjustment of dollar amount.

SUMMARY: The Board is publishing an adjustment to the dollar amount that triggers certain requirements of Regulation Z (Truth in Lending) for mortgages bearing fees above a certain amount. The Home Ownership and Equity Protection Act of 1994 sets forth rules for home-secured loans in which the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. The Board is required to annually adjust the $400 amount based on the annual percentage change in the Consumer Price Index as reported on June 1. The Board adjusted the $400 amount to $412 for 1996 and to $424 for 1997. The Board has adjusted the dollar amount from $424 to $435 for 1998.

EFFECTIVE DATES: January 1, 1998 through December 31, 1998.

FOR FURTHER INFORMATION CONTACT: Michael Hentrel, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, at (202) 452–3667. For the users of Telecommunications Device for the Deaf only, please contact Diane Jenkins at (202) 452–3544.

SUPPLEMENTARY INFORMATION:

Background

The Truth in Lending Act (TILA; 15 U.S.C. 1601–1666j) requires creditors to disclose credit terms and the cost of consumer credit as an annual percentage rate. The act requires additional disclosures for loans secured by a consumer's home, and permits consumers to cancel certain transactions that involve their principal dwelling. The TILA is implemented by the Board's Regulation Z (12 CFR part 226).

On March 24, 1995, the Board published amendments to Regulation Z implementing the Home Ownership and Equity Protection Act of 1994 (HOEPA), contained in the Riegle Community Development and Regulatory Improvement Act of 1994, Public Law 103–325, 108 Stat. 2160 (60 FR 15463). These amendments, which became effective on October 1, 1995, are contained in § 226.32 of the regulation and impose additional disclosure requirements and substantive limitations on certain closed-end mortgage loans bearing rates or fees above a certain percentage or amount. As to fees, creditors are generally required to comply with the rules in § 226.32 if the total points and fees payable by the consumer at or before loan consummation exceed the greater of $400 or 8 percent of the total loan amount. The TILA (15 U.S.C. 1602(aa)(3)) and § 226.32(a)(1)(ii) of Regulation Z provide that the $400 figure shall be adjusted annually on January 1 by the annual percentage change in the Consumer Price Index (CPI) that was reported on the preceding June 1.

The Bureau of Labor Statistics publishes consumer-based indices monthly, but does not "report" a CPI change on June 1; adjustments are reported in the middle of each month. The Board believes the CPI–U index, which is based on all urban consumers and represents approximately 80 percent of the U.S. population, is the appropriate index to use in the adjustment to the $400 dollar figure.

The adjustment to the $400 dollar figure reflects the adjustment reported on May 15, 1997, the rate "in effect" on June 1, which states the percentage increase from April 1996 to April 1997. In 1995, the Board adjusted the $400 amount to $412 for 1996. Last year, the Board adjusted the $400 amount from $412 to $424, reflecting a 2.9 percent increase in the CPI–U. During the period from April 1996 to April 1997, the CPI–U increased by 2.5 percent, bringing the adjusted amount to $434.60. The Board is rounding that number to whole dollars for ease of compliance.

Adjustment

For the reasons set forth in the preamble, for purposes of determining whether a mortgage transaction is covered by § 226.32 (based on the total points and fees payable by the consumer at or before loan consummation), a loan is covered if the points and fees exceed the greater of $435 or 8 percent of the total loan amount, effective January 1, 1998 through December 31, 1998.

By order of the Board of Governors of the Federal Reserve System, February 3, 1998.

William W. Wiles,

Secretary of the Board.

[FR Doc. 98–3108 Filed 2–6–98; 8:45 am]

BILLING CODE 6210–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB 98]

Staff Accounting Bulletin No. 98

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This staff accounting bulletin revises the views of the staff contained in certain topics of the staff accounting bulletin series to be consistent with the provisions of certain accounting standards recently adopted by the Financial Accounting Standards Board. Topics include: Topic 1.B—Allocation of Expenses and Related Disclosure in Financial Statements of Subsidiaries, Divisions or Lesser Business Components of Another Entity; Topic 3.A—Convertible Securities; Topic 4.D—Earnings Per Share Computations in an Initial Public Offering; Topic 6.B.1—Income or Loss Applicable to Common Stock; and Topic 6.G.1—Selected Quarterly Financial Data (Item 302(a) of Regulation S–K).

EFFECTIVE DATE: February 3, 1998.

FOR FURTHER INFORMATION CONTACT: Cody L. Smith, Office of the Chief Accountant (202–942–4400), Kenneth T. Marceron, Division of Corporation Finance (202–942–2960), Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission, nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

Dated: February 3, 1998.

Margaret H. McFarland,

Deputy Secretary.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 98 to the table found in Subpart B.

Staff Accounting Bulletin No. 98

The staff hereby amends the following in the Staff Accounting Bulletin Series:

(a) Topics 1.B.2 and 1.B.3, regarding the allocation of expenses and related

disclosure in financial statements of subsidiaries, divisions or lesser business components of another entity to eliminate instructions to delete historical EPS in the entity's financial statements;

(b) Topic 3.A, regarding the presentation of supplemental earnings per share in a convertible security registration to remove the reference to APB Opinion No. 15, *Earnings Per Share,* and remind registrants of the pro forma requirements of Regulation S–X;

(c) Topic 4.D, regarding the computation of earnings per share in an initial public offering (IPO) to revise instructions regarding the dilutive effects of stock issued for consideration below the IPO price or options and warrants to purchase common stock with exercise prices below the IPO price. New guidance highlights the treatment that should be given to the dilutive effect of common stock or options and warrants to purchase common stock issued for nominal consideration (referred to as nominal issuances);

(d) Topic 6.B.1, regarding the presentation of income or loss applicable to common stock to clarify the Topic's continuing applicability to all registrants and to suggest a presentation format for registrants that elect to present a single statement of income and comprehensive income; and

(e) Topic 6.G.1, regarding selected quarterly financial data to replace the terms "primary" and "fully diluted" with "basic" and "diluted."

TOPIC 1: FINANCIAL STATEMENTS

* * * * *

B. Allocation of expenses and related disclosure in financial statements of subsidiaries, divisions or lesser business components of another entity

* * * * *

2. *Pro forma financial statements and earnings per share*

Question: What disclosure should be made if the registrant's historical financial statements are not indicative of the ongoing entity (*e.g.*, tax or other cost sharing agreements will be terminated or revised)?

Interpretive Response: The registration statement should include pro forma financial information that is in accordance with Article 11 of Regulation S–X and reflects the impact of terminated or revised cost sharing agreements and other significant changes.

3. *Other matters*

Question: What is the staff's position with respect to dividends declared by the subsidiary subsequent to the balance sheet date?

Interpretive Response: The staff believes that such dividends either be given retroactive effect in the balance sheet with appropriate footnote disclosure, or reflected in a pro forma balance sheet. In addition, when the dividends are to be paid from the proceeds of the offering, the staff believes it is appropriate to include pro forma per share data (for the latest year and interim period only) giving effect to the number of shares whose proceeds will be used to pay the dividend. A similar presentation is appropriate when dividends exceed earnings in the current year, even though the stated use of proceeds is other than for the payment of dividends. In these situations, pro forma per share data should give effect to the increase in the number of shares which, when multiplied by the offering price, would be sufficient to replace the capital in excess of earnings being withdrawn.

TOPIC 3: SENIOR SECURITIES

* * * * *

A. Convertible Securities

Facts: Company B proposes to file a registration statement covering convertible securities.

Question: In registration, what consideration should be given to the dilutive effects of convertible securities?

Interpretive Response: In a registration statement of convertible preferred stock or debentures, the staff believes that disclosure of pro forma earnings per share (EPS) is important to investors when the proceeds will be used to extinguish existing preferred stock or debt and such extinguishments will have a material effect on EPS. That disclosure is required by Article 11, Rule 11–01(a)(8) and Rule 11–02(a)(7) of Regulation S–X, if material.

TOPIC 4: EQUITY ACCOUNTS

* * * * *

D. Earnings Per Share Computations in an Initial Public Offering

Facts: A registration statement is filed in connection with an initial public offering (IPO) of common stock. During the periods covered by income statements that are included in the registration statement or in the subsequent period prior to the effective date of the IPO, the registrant issued for nominal consideration [1] common stock, options or warrants to purchase common stock or other potentially dilutive instruments (collectively, referred to hereafter as "nominal issuances").

Prior to the effective date of Statement of Financial Accounting Standards No. 128 (SFAS 128), *Earnings per Share,* the staff believed that certain stock and warrants [2] should be treated as outstanding for all reporting periods in the same manner as shares issued in a stock split or a recapitalization effected contemporaneously with the IPO. The dilutive effect of such stock and warrants could be measured using the treasury stock method.

Question 1: Does the staff continue to believe that such treatment for stock and warrants would be appropriate upon adoption of SFAS 128?

Interpretive Response: Generally, no. Historical EPS should be prepared and presented in conformity with SFAS 128.

In applying the requirements of SFAS 128, the staff believes that nominal issuances are recapitalizations in substance. In computing basic EPS for the periods covered by income statements included in the registration statement and in subsequent filings with the SEC, nominal issuances of common stock should be reflected in a manner similar to a stock split or stock dividend for which retroactive treatment is required by paragraph 54 of SFAS 128. In computing diluted EPS for such periods, nominal issuances of common stock and potential common stock [3] should be reflected in a manner similar to a stock split or stock dividend.

Registrants are reminded that disclosure about materially dilutive issuances is required outside the financial statements. Item 506 of Regulation S–K requires tabular presentation of the dilutive effects of those issuances on net tangible book value. The effects of dilutive issuances on the registrant's liquidity, capital resources and results of operations should be addressed in Management's Discussion and Analysis.

Question 2: Does reflecting nominal issuances as outstanding for all historical periods in the computation of earnings per share alter the registrant's responsibility to determine whether compensation expense must be recognized for such issuances to employees?

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[1] Whether a security was issued for nominal consideration should be determined based on facts and circumstances. The consideration the entity receives for the issuance should be compared to the security's fair value to determine whether the consideration is nominal.

[2] The stock and warrants encompassed by the prior guidance were those issuances of common stock at prices below the IPO price and options or warrants with exercise prices below the IPO price that were issued within a one-year period prior to the initial filing of the registration statement relating to the IPO through the registration statement's effective date.

[3] SFAS 128 defines potential common stock as "a security or other contract that may entitle its holder to obtain common stock during the reporting period or after the end of the reporting period."

Interpretive Response: No. Registrants must follow generally accepted accounting principles in determining whether the recognition of compensation expense for any issuances of equity instruments to employees is necessary.[4] Reflecting nominal issuances as outstanding for all historical periods in the computation of earnings per share does not alter that existing responsibility under GAAP.

TOPIC 6: INTERPRETATIONS OF ACCOUNTING SERIES RELEASES

* * * * *

B. Accounting Series Release No. 280—General Revision of Regulation S–X

1. INCOME OR LOSS APPLICABLE TO COMMON STOCK

Facts: A registrant has various classes of preferred stock. Dividends on those preferred stocks and accretions of their carrying amounts cause income applicable to common stock to be less than reported net income.

Question: In ASR No. 280, the Commission stated that although it had determined not to mandate presentation of income or loss applicable to common stock in all cases, it believes that disclosure of that amount is of value in certain situations. In what situations should the amount be reported, where should it be reported, and how should it be computed?

Interpretive Response: Income or loss applicable to common stock should be reported on the face of the income statement [1] when it is materially different in quantitative terms from reported net income or loss [2] or when it is indicative of significant trends or other qualitative considerations. The amount to be reported should be computed for each period as net income or loss less: (a) dividends on preferred stock, including undeclared or unpaid dividends if cumulative; and (b) periodic increases in the carrying amounts of instruments reported as redeemable preferred stock (as discussed in Topic 3.C) or increasing rate preferred stock (as discussed in Topic 5.Q).

TOPIC 6: INTERPRETATION OF ACCOUNTING SERIES RELEASES

* * * * *

G. ACCOUNTING SERIES RELEASE Nos. 177 and 286—Relating to Amendments to Form 10–Q, Regulation S–K, and Regulation S–X Regarding Interim Financial Reporting

* * ** *

1. SELECTED QUARTERLY FINANCIAL DATA (ITEM 302(a) OF REGULATION S–K)

* * * * *

a. *Disclosure of Selected Quarterly Financial Data*

* * * * *

Question 4: What is meant by "per-share data based upon such income" as used in Item 302(a)(1)?

Interpretive Response: Item 302(a)(1) only requires disclosure of per share amounts for income before extraordinary items and cumulative effect of a change in accounting. It is expected that when per share data is calculated for each full quarter based upon such income, the per share amounts would be both basic and diluted. Although it is not required by the rule, there are many instances where it would be desirable to disclose other per share figures such as net earnings per share and the per share effect of extraordinary items also. Where such disclosure is made, per share data should be both basic and diluted.

[FR Doc. 98–3121 Filed 2–6–98; 8:45 am]
BILLING CODE 8010–01–P

[4] As prescribed by Accounting Principles Board Opinion No. 25, *Accounting for Stock Issued to Employees*, and Statement of Financial Accounting Standards No. 123, *Accounting for Stock-Based Compensation*, and related interpretations.

[1] If a registrant elects to follow the encouraged disclosure discussed in paragraph 23 of Statement of Financial Accounting Standards No. 130, *Reporting Comprehensive Income*, and displays the components of other comprehensive income and the total for comprehensive income using a one-statement approach, the registrant must continue to follow the guidance set forth in Topic 6.B.1. One approach may be to provide a separate reconciliation of net income to income available to common stock below comprehensive income reported on a statement of income and comprehensive income.

[2] The assessment of materiality is the responsibility of each registrant. However, absent concerns about trends or other qualitative considerations, the staff generally will not insist on the reporting of income or loss applicable to common stock if the amount differs from net income or loss by less than ten percent.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Project Cost and Annual Limits

Issued February 3, 1998.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.307(e)(1), the Director of the Office of Pipeline Regulation computes and publishes the project cost and annual limits specified in Table I of § 157.208(d) and Table II of § 157.215(a) for each calendar year.

EFFECTIVE DATE: January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Michael J. McGehee, Division of Pipeline Certificates, OPR (202) 208–2257.

Publication of Project Cost Limits Under Blanket Certificates; Order of The Director, OPR

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the "limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GNP implicit price deflator' published by the Department of Commerce for the previous calendar year."

Pursuant to § 375.307(e)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Pipeline Regulation. The cost limits for calendar year 1998, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued.

Note that these inflation adjustments are based on the Gross Domestic Product (GDP) Implicit Price Deflator, rather than the Gross National Product (GNP) Implicit Price Deflator which is not yet available for 1997. The Commerce Department advises that in recent years the annual change has been virtually the same for both indices. Further adjustments will be made, if necessary.

List of Subjects in 18 CFR Part 157

Natural gas.

Kevin P. Madden,

Director Office of Pipeline Regulation.

Accordingly, 18 CFR Part 157 is amended as follows:

PART 157—[AMENDED]

1. The authority citation for Part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

§ 157.208 [Amended]

2. Table I in § 157.208(d) is revised to read as follows:

TABLE I

Year	Limit	
	Auto. Project cost limit (column 1)	Prior notice project cost limit (column 2)
1982	$4,200,000	12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000.	19,200,000
1998	7,100,000	19,600,000

§ 157.215 [Amended]

3. Table II in § 157.215(a) is revised to read as follows:

TABLE II

Year	Limit
1982	2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000

[FR Doc. 98–3151 Filed 2–6–98; 8:45 am]
BILLING CODE 6717–01–M

DELAWARE RIVER BASIN COMMISSION

18 CFR Part 430

Protection Area Permits for New Withdrawals; Amendments to the Delaware River Basin Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania

AGENCY: Delaware River Basin Commission.

ACTION: Final rule.

SUMMARY: At its January 28, 1998 business meeting, the Delaware River Basin Commission amended its Ground Water Protected Area Regulations for Southeastern Pennsylvania by the establishment of numerical withdrawal limits for subbasins in the Protected Area.

EFFECTIVE DATE: January 28, 1998.

ADDRESSES: Copies of the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania are available from the Delaware River Basin Commission, P.O. Box 7360, West Trenton, New Jersey 08628.

FOR FURTHER INFORMATION CONTACT: Susan M. Weisman, Commission Secretary, Delaware River Basin Commission, (609) 883–9500 ext. 203.

SUPPLEMENTARY INFORMATION: On June 24, 1997 the Commission held a public hearing on proposed amendments to its Ground Water Protected Area Regulations for Southeastern Pennsylvania as noticed in the **Federal Register**, Vol. 62, No. 90, page 25569, May 9, 1997 and Vol. 62, No. 117, page 33058, June 18, 1997. The Commission has considered the extensive testimony and comments from interested parties and has revised the proposed amendments in response to those comments. A "Response Document on Proposed Amendments to the Southeastern Pennsylvania Ground Water Protected Area Regulations" is available upon request to Ms. Weisman at the number provided above.

List of Subjects in 18 CFR Part 430

Water supply.

18 CFR Part 430 is amended as follows:

PART 430—GROUND WATER PROTECTION AREA: PENNSYLVANIA

1. The authority citation for Part 430 continues to read as follows:

Authority: Pub. L. 87–328 (75 Stat. 688).

2. Section 430.13 is amended by adding new paragraphs (h) through (m), to read as follows:

§ 430.13 Protected area permits for new withdrawals.

* * * * *

(h) Dockets and protected area permits may be issued for a duration of up to ten years and shall specify the maximum total withdrawals that must not be exceeded during any consecutive 30-day period. Such maximum total withdrawals shall be based on demands projected to occur during the duration of the docket or protected area permit.

(i) Ground water withdrawal limits shall be defined for subbasins in accordance with the provisions of (i)(1) or (2) of this section. The limits for specific subbasins are set forth in (i)(3) of this section.

(1) Baseflow frequency analyses shall be conducted for all subbasins in the Southeastern Pennsylvania Ground Water Protected Area. The analyses shall determine the 1-year-in-25 average annual baseflow rate. The 1-year-in-25 average annual baseflow rate shall serve as the maximum withdrawal limit for net annual ground water withdrawals for subbasins. If net annual ground water withdrawals exceed 75 percent of this rate for a subbasin, such a subbasin shall be deemed "potentially stressed." The Commission shall maintain a current list of net annual ground water withdrawals for all subbasins. "Net" annual ground water withdrawals includes total ground water withdrawals less total water returned to the ground water system of the same subbasin.

(2) Upon application by the appropriate governmental body or bodies, the withdrawal limits criteria set forth in (i)(1) of this section may be revised by the Commission to provide additional protection for any subbasin identified in (i)(3) of this section with streams or stream segments designated by the Commonwealth of Pennsylvania as either "high quality," or "exceptional value," or "wild," or "scenic," or "pastoral," or to correspond with more stringent requirements in integrated resource plans adopted and implemented by all municipalities within a subbasin identified in (i)(3) of this section. Integrated resource plans shall be developed according to sound principles of hydrology. Such plans shall at a minimum assess water resources and existing uses of water; estimate future water demands and resource requirements; evaluate supply-side and demand-side alternatives to meet water withdrawal needs; assess options for wastewater discharge to subsurface formations and streams;

consider stormwater and floodplain management; assess the capacity of the subbasin to meet present and future demands for withdrawal and nonwithdrawal uses such as instream flows; identify potential conflicts and problems; incorporate public participation; and outline plans and programs including land use ordinances to resolve conflicts and meet needs. Integrated resource plans shall be adopted and implemented by all municipalities within a subbasin and incorporated into each municipality's Comprehensive Plan.

(3) Subject to public notice and hearing, this section may be updated or revised based upon the following: the completion of baseflow frequency analyses for the remaining subbasins with the Protected area; new and evolving information on hydrology and streamflow and ground water monitoring; or in accordance with (i)(2) of this section. The potentially stressed levels and withdrawal limits for all delineated basins and subbasins are set forth below:

NESHAMINY CREEK BASIN

Subbasin	Potentially stressed (mgy)	Withdrawal limit (mgy)
West Branch Neshaminy	1054	1405
Pine Run	596	795
North Branch Neshaminy	853	1131
Main Stem Doylestown	710	946
Main Stem Warwick	889	1185
Little Neshaminy Warrington	505	673
Park Creek	582	776
Little Neshaminy Warminster	1016	1355
Mill Creek	1174	1565
Main Stem Northampton	596	794
Newtown Creek	298	397
Core Creek	494	658
Ironworks Creek	326	434
Main Stem Lower Neshaminy	3026	4034

(j) Upon its determination that a subbasin is potentially stressed, the Commission shall notify all ground water users in the subbasin withdrawing 10,000 gallons per day or more during any 30-day period of its determination. If any such users have not obtained a docket or protected area permit from the Commission, they shall be required to apply to the Commission within 60 days of notification.

(k) In potentially stressed subbasins, dockets and protected area permit applications for new or expanded ground water withdrawals must include one or more programs to mitigate the adverse impacts of the new or expanded ground water withdrawal. The eligible programs are noted below. If the remainder of the application and the program(s) submitted are acceptable, the withdrawal may be approved by the Commission for an initial three-year period. The applicant shall implement the program(s) immediately upon Commission approval. If after the three-year period the program(s) is deemed successful by the Commission, the docket or permit duration may be extended for up to 10 years. The project sponsor shall be required to continue the program(s) for the duration of the docket or permit.

(1) A conjunctive use program that demonstrates the applicant's capability to obtain at least 15 percent of its average annual system usage from a reliable surface water supply. An acceptable program shall include either reservoir storage or an interconnection with a surface water supplier and an agreement or contract to purchase water from the supplier for the duration of the docket or permit.

(2) A water conservation program that exceeds the requirements of § 430.15. For existing water utilities, the program shall reduce average annual per capita water usage by at least five percent. All conservation programs shall include water conservation pricing, either inclining block rates, seasonal rates, or excess-use surcharges, and plumbing fixture rebate or retrofit components. For self-supplied users, the program shall include water efficient technologies such as recycling, reuse, xeriscaping, drip or micro irrigation, or other innovative technology approved by the Commission.

(3) A program to monitor and control ground water infiltration to the receiving sewer system. The program must quantify ground water infiltration to the system and document reductions in infiltration. The program should include such measures as leakage surveys of sewer mains, metering of sewer flows in mains and interceptors, analysis of sewer system flows to quantify infiltration, and remedial measures such as repair of leaks and joints, main lining, and main replacement.

(4) An artificial recharge or spray irrigation program that demonstrates a return of at least 60 percent of the total new or expanded annual withdrawal to the same ground water basin and aquifer system from which it is withdrawn. The program shall not impair ground water quality.

(5) An alternative program approved by the Commission to mitigate the adverse impacts of the new or expanded ground water withdrawal.

(l) The durations of all existing dockets and protected area permits may be extended by the Commission for an additional five years if the docket or permit holder successfully implements in either (k)(1) or (k)(2) of this section. If the docket or permit holder successfully implements both options, the docket or permit may be extended for an additional ten years. The Executive Director shall notify all docket and permit holders potentially affected by this resolution of their right to file an application to determine their eligibility for extension.

(m) It is the policy of the Commission to prevent, to the extent reasonably possible, net annual ground water withdrawals from exceeding the maximum withdrawal limit. An application for a proposed new or expanded ground water withdrawal that would result in net annual ground water withdrawals exceeding the maximum withdrawal limit established in paragraph (i)(3) of this section shall set forth the applicant's proposal for complying with the Commission's policy, with such supporting documentation as may be required by the Executive Director. Notification of the application shall be given to all affected existing water users who may also submit comments or recommendations for consideration by the Commission on the pending application. In taking action upon the application, the Commission shall give consideration to the submissions from the applicant and affected water users. If the Commission determines that it is in the public interest to do so, it may reduce the total of proposed and existing ground water withdrawals within a subbasin to a level at or below the withdrawal limit. Unless otherwise determined by the Commission, docket and permit holders shall share equitably in such reductions.

Dated: January 29, 1998.

Susan M. Weisman,

Secretary.

[FR Doc. 98–3074 Filed 2–6–98; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF STATE

22 CFR Part 51

Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates

AGENCY: Bureau of Consular Affairs, State Department.

ACTION: Final rule correction.

SUMMARY: This document corrects a technical error in the final rule published on January 30, 1998, which set forth revised fees for consular services and made other implementing changes.

EFFECTIVE DATE: February 1, 1998.

FOR FURTHER INFORMATION CONTACT: Sally Light, Office of the Executive Director, Bureau of Consular Affairs, telephone (202) 647–1148; telefax (202) 647–3677.

SUPPLEMENTARY INFORMATION: In the final rule published on January 30, 1998, the Department, among other things, revised § 51.61, Passport fees, and made conforming changes to other sections in part 51. One of those changes removed § 51.62, Regulatory fees, from the subpart and renumbered the remaining sections in the subpart. Due to an editorial oversight, the last section in the subpart, section 51.67, was not included in the renumbering. This correction corrects that error.

Text of correction

The final rule amending 22 CFR part 51 which was published on January 30, 1998 at 63 FR 5098 is corrected as follows:

On page 5103 in the second column, instruction paragraph 6. is corrected to read as follows:

1. Section 51.62 is removed and §§ 51.63 through 51.67 are redesignated as §§ 51.62 through 51.66, respectively.

George C. Lannon,

Executive Director, Bureau of Consular Affairs, Department of State.

[FR Doc. 98–3168 Filed 2–6–98; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

22 CFR Parts 72 and 92

[Public Notice 2718]

Consular Schedule of Fees/Decedent Estate Procedures

AGENCY: Bureau of Consular Affairs, Department of State.

ACTION: Final rule.

SUMMARY: The Bureau of Consular Affairs is amending certain regulations relating to fees charged for consular services to reflect changes being made in the Schedule of Fees.

DATES: *Effective date:* February 1, 1998.

Comments: Although this rule takes effect February 1, 1998, persons may submit written comments up to 30 days after the date of publication of this rule. (March 11, 1998).

FOR FURTHER INFORMATION CONTACT: Edward A. Betancourt or Michael Meszaros, Overseas Citizens Services, Department of State, 2201 C Street, NW, Room 4811, Washington, DC 20520, 202–647–3666.

SUPPLEMENTARY INFORMATION: This rule revises §§ 72.14, 72.52, 72.53, 92.43 and removes §§ 92.44 and 92.48 of Title 22 of the CFR. These sections would otherwise conflict with the new Schedule of Fee provisions, 22 CFR 22.2, taking effect February 1, 1998, or are now unnecessary. The significant provisions affected at present provide (1) For no fees to be charged for disposition of remains services rendered by consular officers without regard to the nationality of the decedent (2) for a fee for rendering services with respect to personal estates of deceased U.S. citizens overseas that is different from the new fee being established in 22 CFR 22.1 and (3) fees for protesting payment of bills of exchange, which is no longer included in the Schedule of Fees.

Item No. 25 of the new Schedule of Fees 22 CFR 22.1, will provide, effective February 1, 1998, for a fee of $700.00 for assistance rendered in transshipment of the remains of a foreign national to or through the United States. 22 CFR 72.14 is amended so this fee, found in the recent fee study to be appropriate for the service rendered, can be charged. The service will continue to be a no-fee service with respect to the remains of a U.S. national.

Item No. 28 of the new Schedule of Fees will provide for an hourly fee for certain services rendered in connection with personal estates of U.S. citizens who die overseas, applicable to estates over $10,000. The fee in 22 CFR 72.52 is based on the value of the estate rather than the consular officers time and has no exemption. To ensure consistency with the new fee schedule, §§ 72.52 and 72.53(a) are being amended. Minor technical changes are also being made in § 72.53(a).

The new Schedule of Fees eliminates fees for protesting nonpayment of bills of exchange. Therefore, 22 CFR 92.44, the CFR section that provides instructions regarding this service, which is no longer performed, is removed. Section 92.48 is also being removed because it serves no apparent function. A minor technical change is also being made to 22 CFR 92.43.

These regulations are not expected to have a significant economic impact on a substantial number of small entities and are not major rules for purposes of advance Congressional reporting under the criteria of the Regulatory Flexibility Act. In addition, they will not impose information collection requirements under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. Nor do these final rules have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. These final rules have been reviewed under E.O. 12988 and determined to be in compliance therewith. These rules are exempt from review under E.O. 12866 but have been reviewed internally and found to be consistent with the objectives thereof.

Comment Period and Effective Date—Exceptions

This rule is being promulgated as a final rule without prior notice and comment, and will take effect in less than 30 days after publication. The Department considers the rule exempt from the advance notice and comment procedures and believes that it is appropriate to make the rule effective February 1 pursuant to the exceptions provided in 5 U.S.C. 553(b) and 553(d)(3) for the following reasons. The rule simply conforms related regulations to changes in the Schedule of Fees for Consular Services that were published for notice and comment on December 1, 1997, and that are scheduled to take effect on February 1. Because the public was previously made aware of these changes in that context, and because the Department is imminently taking action on the Schedule of Fees in light of public comments received, providing for additional notice and comment with respect to the conforming changes being made here is unnecessary and would not be meaningful. Moreover, it would be impracticable and contrary to the public interest to delay the changes made by this rule, because doing so would result in a confusing inconsistency between the Schedule of Fees and the rules being amended herein. The Department believes the public interest is best served by ensuring that the regulations amended herein are conformed to other regulatory changes being made effective February 1.

List of subjects in

22 CFR Part 72

Estates and Foreign Service

22 CFR Part 92

Foreign service and Legal services.

Accordingly Parts 72 and 92 of Title 22 are amended as follows:

PART 72—DEATHS AND ESTATES

1. The authority citation for Part 72 continues to read as follows:

Authority: R.S. 1709, as amended, sec. 302, 60 stat. 1001; 22 U.S.C. 1175, 842.

2. Revise § 72.14 to read as follows:

§ 72.14 Fees for disposing remains.

No fees are prescribed for services in connection with the disposition of remains of United States citizens or nationals. Fees for such services with respect to the remains of foreign nationals are as prescribed in the Schedule of Fees, 22 CFR 22.1.

3. Revise § 72.52 to read as follows:

§ 72.52 Fee services

Fees are charged for overseeing the appraisal, sale and final disposition of the estate, disbursing funds, and forwarding securities, etc., as provided in the Schedule of Fees, 22 CFR 22.1.

4. Revise paragraph (a) of § 72.53 to read as follows:

§ 72.53 No-Fee services

* * * * *

(a) For taking possession of, making an inventory, placing the official seal on the estate (real or personal property), or for breaking or removing such seals § 72.28–72.29);

* * * * *

PART 92—NOTARIAL AND RELATED SERVICES

5. The authority citation for Part 92 continues to read as follows:

Authority: 22 U.S.C. 2658, unless otherwise noted.

§ 92.43 [Amended]

6. Section 92.43 is amended by removing "Notarial Services and Authentications in the Tariff of Fees, foreign service of the United States of America § 22.1 of this chapter), unless the service is performed under a "no fee" item of the same tariff" and substituting "Documentary services in the Schedule of Fees § 22.1 of this chapter), unless the service is performed under a "no fee" item of the same caption of the Schedule."

§§ 92.44 and 92.48 [Removed]

7. Sections 92.44 and 92.48 are removed.

Dated: January 27, 1998.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 98–2962 Filed 2–6–98; 8:45 am]

BILLING CODE 4710–06–M

POSTAL SERVICE

39 CFR Parts 262 and 265

Records and Information Management Definitions and Release of Information

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends Postal Service regulations relating to the availability of records to the public. This rule is made necessary by amendments to the Freedom of Information Act, made by Public Law 104–231, the "Electronic Freedom of Information Act Amendments of 1996." The amendments address the availability of electronic records, the creation of a new electronic reading room, and procedural aspects, such as time limits, expedited processing, denial specifications, and reporting requirements.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Betty Sheriff, (202) 268–2608.

SUPPLEMENTARY INFORMATION: This rule is substantially the same as the interim rule with request for comments published on December 5, 1997. The Freedom of Information Act (5 U.S.C. 552) was amended on October 2, 1996, by Public Law 104–231, the "Electronic Freedom of Information Act Amendments of 1996." Consistent with the amended law, these regulations:

a. Add a new category of reading room records consisting of any records processed and disclosed in response to a FOIA request that the Postal Service determines have become or are likely to become the subject of subsequent requests for substantially the same records. These and other reading room records created on or after November 1, 1996, also will be made available through the Postal Service's world wide web home page after November 1, 1997.

b. Define the term "record" to include electronic records; provide that the requester may choose the form or format in which to receive records; and state that the Postal Service will make reasonable efforts to search for records in electronic form or format unless such efforts would significantly interfere with the operation of its computer systems.

c. Extend the period for response from 10 to 20 working days as of October 2, 1997; provide for notification of the requester when that period cannot be met to arrange for an alternative time frame or a modified request; and establish a new procedure for handling requests for expedited processing.

d. Require the custodian to indicate on the released portion of a record the amount of information deleted and to include in a written response an estimate of the volume of any records withheld in full.

e. Change the annual reporting period from a calendar year to the fiscal year that, for most of the Executive branch, begins on October 1, and provide that those reports will be made available to the Attorney General and on the Postal Service's world wide web page.

Other changes update organizational titles and the schedule of fees for searching for records by computer.

Analysis of Comments Received

Two written comments were received. One commenter objected to the Postal Service's exclusion from the category of reading room records that will be made available on its world wide web site those records that were not created by, or on behalf of, the Postal Service. The commenter stated that a limitation based on who created the records is unauthorized and contrary to law. It requested that the exclusionary language appearing in paragraphs 265.5 and 265.6(a)(4) be removed. The Postal Service disagrees with the commenter's analysis of the statutory requirement regarding electronic availability as set out in section 552(a)(2) and declines to adopt the requested change for the following reasons.

The bulk of the material covered by section 552(a)(2)—that is, the materials described in subparagraphs (A), (B) and (C) of that section—consists of records that are created by an agency, not merely obtained by it. Only the newly added category of records subject to multiple FOIA requests, subparagraph (D), has the potential to include records created by another entity and later obtained by the agency. The language of the statute unequivocally limits the electronic availability requirement to records "created" on or after November 1, 1996. This strongly suggests that Congress had in mind records created by the agency, not records obtained by it. If Congress had meant to include in this requirement records generated elsewhere, it could have said "records created or obtained" on or after November 1, 1996. We believe the more reasonable interpretation of the provision—and the one that better comports with the practicalities of agency recordkeeping—is that Congress intended only records created by the agency to be subject to the requirement.

Category (D) records will, of course, be available as conventional reading room records. Also, the Postal Service may exercise its discretion to make them electronically available in the appropriate circumstance.

The other commenter requested the Postal Service add language to section 265.7(g) to allow records custodians in their discretion to waive certification in processing requests for expedited review. The Postal Service sees merit in

this request and is adopting the suggested change.

Other Changes from Interim Rule

Sections 265.6(a)(2) and (a)(3) are amended to more accurately identify the Opinions and Manuals available on the Internet.

List of Subjects

Part 262

Archives and records, Records and information management definitions.

Part 265

Administrative practice and procedure, Courts, Freedom of information, Government employees, Release of information.

For the reasons set out in the preamble, 39 CFR parts 262 and 265 are amended as set forth below.

PART 262—RECORDS AND INFORMATION MANAGEMENT DEFINITIONS

1. The authority citation for part 262 is revised to read as follows:

Authority: 5 U.S.C. 552, 552a; 39 U.S.C. 401.

2. Section 262.2(a) is revised to read as follows:

§ 262.2 Officials.

(a) *Records Custodian.* The postmaster or other head of a facility such as an area vice president, district manager, or head of a postal installation or department who maintains Postal Service records. Vice presidents are the custodians of records maintained at Headquarters. Senior medical personnel are the custodians of restricted medical records maintained within postal facilities.

* * * * *

3. Section 262.4 introductory text is revised to read as follows:

§ 262.4. Records.

Recorded information, regardless of media, format, or physical characteristics, including electronic data, developed or received by the Postal Service in connection with the transaction of its business and retained in its custody; for machine-readable records, a collection of logically related data treated as a unit.

* * * * *

PART 265—RELEASE OF INFORMATION

4. The authority citation for part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601.

5. Section 265.3(a) is revised to read as follows:

§ 265.3 Responsibility.

(a) *Custodian.* Official records are in the custody of the postmaster or other head of a facility or department at which they are maintained, as defined at § 262.2(a) of this chapter. These custodians are responsible for responding in the first instance to requests from members of the public for Postal Service records.

* * * * *

6. Section 265.5 is revised to read as follows:

§ 265.5 Public reading rooms.

The Library of the Postal Service Headquarters, 475 L'Enfant Plaza SW, Washington, DC 20260–1641, serves as public reading room for the materials which are listed in paragraphs (a)(2), (3), (4) and (5) of § 265.6 as available for public inspection and copying. Such of this material as has been created by the Postal Service on or after November 1, 1996, and has not been published and offered for sale, also will be available in electronic format at the Postal Service's world wide web site at http://www.usps.gov.

7. Section 265.6(a) is revised to read as follows:

§ 265.6 Availability of records.

(a) *Records available to the public on request*—(1) *General.* Postal Service records are available for inspection or copying at the request of any person, in accordance with the provisions of this part, except as otherwise provided by law or regulations, including but not limited to paragraphs (b) through (g) of this section. Certain categories of records of particular interest are available on a continuing basis as provided in paragraphs (a)(2), (3), and (4) of this section and are listed in a public index as provided in paragraphs (a)(4) and (5) of this section. Access to other records may be requested on an individual basis in accordance with the procedures provided in § 265.7. Official records which are maintained on an electronic storage medium will normally be made available, in accordance with this part, as an exact duplicate of the requested original in a form readable by the human eye, such as a computer print-out. On request, records will be provided in a different form or format if they are maintained in the requested form or format or if they can be readily reproduced in the requested form or format.

(2) *Opinions.* All final opinions and orders made in the adjudication of cases by the Judicial Officer and Administrative Law Judges, all final determinations pursuant to section 404(b) of title 39, United States Code, to close or consolidate a post office, or to disapprove a proposed closing or consolidation, all advisory opinions concerning the private express statutes issued pursuant to 39 CFR 310.6, and all bid protest decisions are on file and available for inspection and copying at the Headquarters Library and, if created on or after November 1, 1996, also at the Postal Service's world wide web site identified at § 265.5.

(3) *Administrative manuals and instructions to staff.* The manuals, instructions, and other publications of the Postal Service that affect members of the public are available through the Headquarters Library and at many post offices and other postal facilities. Those which are available to the public but are not listed for sale may be inspected in the Headquarters Library, at any postal facility which maintains a copy, or, if created on or after November 1, 1996, through the world wide web site identified at § 265.5. Copies of publications which are not listed as for sale or as available free of charge may be obtained by paying a fee in accordance with § 265.9.

(4) *Previously released records.* Records processed and disclosed after March 31, 1997, in response to a Freedom of Information Act request, which the Postal Service determines have become or are likely to become the subject of subsequent requests for substantially the same records, are available for inspection and copying at the Headquarters Library. Any such records created by the Postal Service on or after November 1, 1996, also will be available at the Postal Service's world wide web site identified at § 265.5. Records described in this paragraph that were not created by, or on behalf of, the Postal Service generally will not be available at the world wide web site. Records will be available in the form in which they were originally disclosed, except to the extent that they contain information that is not appropriate for public disclosure and may be withheld pursuant to this section. Any deleted material will be marked and the applicable exemption(s) indicated in accordance with § 265.7(d)(3). A general index of the records described in this paragraph is available for inspection and copying at the Headquarters Library. [Beginning on or before December 31, 1999, the index also will be available at the Postal Service's world wide web site.]

(5) *Public index.* (i) A public index is maintained in the Headquarters Library and at the world wide web site of all

final opinions and orders made by the Postal Service in the adjudication of cases, Postal Service policy statements which may be relied on as precedents in the disposition of cases, administrative staff manuals and instructions that affect the public, and other materials which the Postal Service elects to index and make available to the public on request in the manner set forth in paragraph (a) of this section.

(ii) The index contains references to matters issued after July 4, 1967, and may reference matters issued prior to that date.

(iii) Any person may arrange for the inspection of any matter in the public index in accordance with the procedures of § 265.7.

(iv) Copies of the public index and of matters listed in the public index may be purchased through the Headquarters Library with payment of fees as listed in the index or as provided in § 265.9.

(v) Materials listed in the public index that were created on or after November 1, 1996, will also be available in electronic format at the Postal Service's world wide web site at http://www.usps.gov.

(6) *Listings of employees' names.* Upon written request, the Postal Service will, to the extent required by law, provide a listing of postal employees working at a particular postal facility.

* * * * *

8.–10. Sections 265.7(b) and (c), (d)(1), (e)(1), (f) (1) and (2), and (g) are revised to read as follows:

§ 265.7 Procedure for inspection and copying of records.

* * * * *

(b) *Responsibilities of the custodian.* (1) The custodian of the requested record is the person responsible for determining whether to comply with or to deny the request. A custodian who is not an Officer as defined in § 221.8 of this chapter, however, should not deny a request until he has obtained the advice of Chief Field Counsel. If denial of a request appears necessary, the custodian should seek advice as soon as possible after receipt of the request so as to provide adequate time for legal review. Denial must be made in accordance with paragraph (d) of this section.

(2) The custodian shall make the determination whether to release or deny the record(s) within 20 working days (i.e., exclusive of Saturdays, Sundays, and holidays) of receiving the request, and more rapidly if feasible. The custodian and the requester may, by mutual agreement, preferably in writing, establish a different response period.

(3) If a requested record cannot be located from the information supplied, the requester should be given an opportunity to supply additional information and, if feasible, to confer with the custodian or his/her representative, in an attempt to provide a reasonable description of the records sought. If additional information is furnished, the request will be deemed to have been received by the custodian when sufficient additional information to identify and locate the record with a reasonable amount of effort has been received.

(4) The custodian shall make reasonable efforts to search for the records in electronic form or format, except when such efforts would significantly interfere with the operation of the automated information system.

(5) The 20 working day response period allowed in paragraph (b)(2) of this section may be extended by the custodian, after consultation with Chief Field Counsel or with the General Counsel if the custodian is at Headquarters, for a period not to exceed an additional 10 working days, except as provided in paragraph (b)(7) of this section, when, and to the extent, reasonably necessary to permit the proper processing of a particular request, under one or more of the following unusual circumstances:

(i) The request requires a search for and collection of records from a facility other than that processing the request.

(ii) The request requires the search for, and collection and appropriate examination of, a voluminous amount of separate and distinct records.

(iii) The request requires consultation:

(A) With another agency having a substantial interest in the determination of whether to comply with the request or

(B) Among two or more components of the Postal Service having substantial subject matter interest in the determination of whether to comply with the request.

(6) When the custodian finds that the additional time is required, he shall acknowledge the request in writing within the initial 20-day response period, state the reason for the delay, and indicate the date on which a decision as to disclosure is expected.

(7) If a request cannot be processed within the additional time provided by paragraph (b)(5) of this section, in spite of the exercise of due diligence, the custodian shall notify the requester of the exceptional circumstances preventing timely compliance and of the date by which it is expected that the determination will be made. The custodian also shall provide the requester an opportunity to limit the scope of the request so that it may be processed within the extended time limit, or an opportunity to arrange with the custodian an alternative time frame for processing the request or a modified request. The custodian shall nonetheless make a determination on the request as promptly as possible.

(8) If a requested record is known to have been destroyed, disposed of, or otherwise not to exist, the requester shall be so notified.

(c) *Compliance with request upon affirmative determination by custodian.* (1) When a requested record has been identified and is to be disclosed in whole or in part, the custodian shall ensure that the record is made available promptly and shall immediately notify the requester where and when and under what reasonable conditions, if any, including the payment of fees, the record will be available for inspection or copies will be available Postal Service records will normally be available for inspection and copying during regular business hours at the postal facilities at which they are maintained. The custodian may, however, designate other reasonable locations and times for inspection and copying of some or all of the records within his custody.

(2) Any fees authorized or required to be paid in advance by § 265.9(f)(3) shall be paid by the requester before the record is made available or a copy is furnished unless payment is waived or deferred pursuant to § 265.9(g).

(3) A custodian complying with a request may designate a representative to monitor any inspection or copying.

(d) *Denial of request.* (1) A reply denying a request in whole or in part shall be in writing, signed by the custodian or his designee, and shall include:

(i) A statement of the reason for, or justification of, the denial (e.g., records personal in nature), including, if applicable, a reference to the provision or provisions of § 265.6 authorizing the withholding of the record and a brief explanation of how each provision applies to the records requested.

(ii) If entire records or pages are withheld, a reasonable estimate of the number of records or pages, unless providing such estimate would harm an interest protected by the exemption relied upon.

(iii) The name and title or position of the person responsible for the denial of the request (see paragraph (d)(2) of this section).

(iv) A statement of the right to appeal and of the appeal procedure within the

Postal Service (described in paragraph (e) of this section).

* * * * *

(e) *Appeal procedure.* (1) If a request to inspect or to copy a record, or a request for expedited processing of the request, is denied, in whole or in part, if no determination is made within the period prescribed by this section, or if a request for waiver of fees is not granted, the requester may appeal to the General Counsel, U.S. Postal Service, Washington, DC 20260–1100.

* * * * *

(f) *Action on appeals.* (1) The decision of the General Counsel or his designee constitutes the final decision of the Postal Service on the right of the requester to inspect or copy a record, or to expedited processing of the request, as appropriate. The General Counsel will give prompt consideration to an appeal for expedited processing of a request. All other decisions normally will be made within 20 working days from the time of the receipt by the General Counsel. The 20-day response period may be extended by the General Counsel or his designee for a period not to exceed an additional 10 working days when reasonably necessary to permit the proper consideration of an appeal, under one or more of the unusual circumstances set forth in paragraph (b)(5) of this section. The aggregate number of additional working days utilized pursuant to this paragraph (f)(1) and paragraph (b) of this section, however, may not exceed 10.

(2) The decision on the appeal shall be in writing. If the decision sustains a denial of a record, in whole or in part, or if it denies expedited processing, it shall state the justification therefor and shall inform the requester of his right to judicial review. In the case of records withheld, the decision also shall specify any exemption or exemptions relied on and the manner in which they apply to the record, or portion thereof, withheld.

* * * * *

(g) *Expedited processing.* (1) *Criteria.* A request for expedited processing of a request for records shall be granted when the requester demonstrates compelling need. For purposes of this paragraph, "compelling need" exists if:

(i) Failure of the requester to obtain the records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual or;

(ii) In the case of a request made by a person primarily engaged in disseminating information, there is an urgency to inform the public concerning actual or alleged federal government activity.

(2) *Request.* A request for expedited processing shall be directed in writing to the records custodian. The requester must provide information in sufficient detail to demonstrate compelling need for the records and certify this statement to be true and correct to the best of the requester's knowledge and belief. The custodian may waive the formality of certification when deemed appropriate.

(3) *Determination.* The records custodian shall make a determination of whether to provide expedited processing and notify the requester within ten days after the date of the request for expedited processing. If the request is granted, the records custodian shall process the request for records as soon as practicable. If the request for expedited processing is denied, the written response will include the procedures at paragraph (d) of this section for appealing the denial.

Section 265.10 is revised to read as follows:

§ 265.10 Annual report.

A report concerning the administration of the Freedom of Information Act and this part will be submitted to the Attorney General of the United States on or before February 1 of each year, with the first such report, for fiscal year 1998, due on or before February 1, 1999. Data for the report will be collected on the basis of fiscal year that begins on October 1 of each year. The Attorney General, in consultation with the Director, Office of Management and Budget, will prescribe the form and content of the report. The report will be made available to the public at the headquarters Library and on the Postal Service's world wide web site at http://www.usps.gov.

12. Appendix A to Part 265—Information Services Price List is revised to read as follows:

Appendix A to Part 265—Information Services Price List

When information is requested that must be retrieved by computer, the requester is charged for the resources required to furnish the information. Estimates are provided to the requester in advance and are based on the following price list.

Service description	Price	Unit
Servers		
A. OS390 Servers:		
Batch or on-line	$1,350.00	Hour.
Services	25.00	Volume.
Media Charge (Tape Produced).	.10	Page.
Print.		
B. Production Servers:		
(Running UNIX or NT OS).	155.00	Hour.
On-line Services	.13	Page.
Print.		
C. Personal Computers:		
On-line search	6.25	15.
	.13	Minutes.
Print.		Page.
D. Personnel Charges:		
Software Systems.	81.00	Hour.
Services	70.00	Hour.
Programming Services.	48.00	Hour.
Manual Unit Services.		

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–2907 Filed 2–6–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[FRL–5960–3]

Technical Amendments to Control of Air Pollution; Removal and Modification of Obsolete, Superfluous or Burdensome Rules; Correction of Effective Data Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule correction; correction of effective date under CRA.

SUMMARY: On June 24, 1996 (61 FR 32339), the Environmental Protection Agency published in the Federal Register a final rule correcting Clean Air Act final regulations which were published on April 11, 1996, which established an effective date of June 24, 1996. This document corrects the effective date of the rule to February 9, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Tom Eagles, OAR, at (202) 260–5585.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on June 24, 1996 (61 FR 32339) by operation of law, the rule did not take effect on June 24, 1996, as stated therein. Now that EPA has discovered its error, the rules being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 24, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 9, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3035 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT7–1–5298a; A–1–FRL–5949–6]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Volatile Organic Compounds at Sikorsky Aircraft Corporation in Stratford

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires reasonably available control technology (RACT) for volatile organic compound (VOC) emissions which are not subject to control technology guideline-based regulations (i.e., non-CTG VOC emission sources) at Sikorsky Aircraft Corporation in Stratford, Connecticut. The intended effect of this action is to approve a source-specific RACT determination made by the State in accordance with the Clean Air Act. This action is being taken in accordance with section 110 of the Clean Air Act.

DATES: This action will become effective April 10, 1998, unless EPA recieves adverse or critical comments by March 11, 1998. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Building, Boston, MA 02203–2211. Copies of the documents relevant to this action are available for public inspection during normal business hours, by appointment at the Office Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA; Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, S.W., (LE–131), Washington, D.C. 20460; and the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203–2211; (617) 565–2773; or by E-mail at: Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION:

I. Order No. 8010

On March 21, 1984, EPA approved subsection 22a–174–20(ee) of Connecticut's regulations as part of Connecticut's 1982 Ozone Attainment Plan. This regulation requires the Connecticut Department of Environmental Protection to determine and impose RACT on all stationary sources with potential VOC emissions of one hundred tons per year (TPY) or more that are not already subject to Connecticut's regulations developed pursuant to the Control Techniques Guideline (CTG) documents. The total potential VOC emissions from Sikorsky's otherwise unregulated processes are approximately 504 TPY.

On August 26, 1986, the Connecticut DEP sent draft State Order No. 8010 to EPA as a RACT determination for Sikorsky in Stratford. EPA reviewed this draft RACT determination, and provided comments on September 23, 1986. On December 5, 1986, the DEP submitted proposed State Order No. 8010 incorporating EPA's comments, as a revision to Connecticut's State Implementation Plan for parallel-processing. EPA submitted additional comments on January 16, 1987 during the State's public comment period. The

DEP conducted a public hearing on January 22, 1987, at which time Sikorsky submitted comments on the proposed State Order. To simplify EPA's rulemaking, the State resubmitted a revised proposed State Order which contains the necessary changes to address all of the comments made by EPA and others during the public comment period. As mentioned above, the notice of proposed rulemaking (NPR) was published for public comment on June 22, 1988 (53 FR 23416). While no formal public comments were submitted on the NPR, the State Order was appealed by Sikorsky and a formal hearing regarding the appeal was held on February 14, 1989.

On March 27, 1990, the State of Connecticut formally submitted a RACT determination for Sikorsky in Stratford as a SIP revision. This RACT determination package addressed the findings of the hearing officer as a result of the appeal. At that time, no substantive changes were made to the State Order as a result of the appeal. Order No. 8010 requires Sikorsky to achieve compliance with Connecticut's federally-approved Solvent Metal Cleaning regulation for four degreasers which were previously exempt from this rule. Secondly, the State Order requires Sikorsky to install a carbon adsorption/solvent recovery system which meets an overall VOC removal efficiency of 85 percent on a flowcoater which coats helicopter parts. Finally, the Order No. 8010 requires Sikorsky to meet and maintain emission limitations in terms of pounds of VOC per gallon of coating (minus water) for eight spray booths which coat helicopters and helicopter parts, and requires Sikorsky to maintain the VOC emissions from each of the three other spray booths at 40 pounds of VOC per day or less.

On November 15, 1990, the Clean Air Act Amendments of 1990 (CAAA) were enacted. Section 182(a)(2)(A) of the CAAA required that all States that were required to make corrections to RACT regulations, needed to revise their regulations to make them consistent with EPA guidance by May 15, 1991. Connecticut began its efforts to revise its regulations well before enactment, and on October 18, 1991, EPA published a final rule approving Connecticut's revised VOC regulations as part of the SIP. The revised Connecticut regulations included changes to the regulations which affect this Sikorsky RACT determination. In fact, had Connecticut's regulations been consistent with EPA guidance at the time this Sikorsky "non-CTG" RACT determination was being developed, certain operations at this source would have been subject to Connecticut's regulations developed pursuant to CTGs. For this reason, Connecticut's revised requirements in subsections 22a–174–20(l), "Metal cleaning" and 22a–174–20(s), "Miscellaneous metal parts and products," now supersede portions of this State Order.

Where this Sikorsky RACT determination and subsection 22a–174–20(l) and 20(s) overlap, the more stringent requirements must be met. For example, provision 7 of the State Order allows a black polyurethane topcoat in paint shop #1, to meet an emission limit potentially higher than that required by subsection 22a–174–20(s). In this case, the requirements of subsection 22a–174–20(s) would apply. Similarly, booths which individually emitted less than 40 pounds per day were exempted from control under the State Order. Subdivision 22a–174–20(s) now requires that any facility that has actual facility-wide emissions greater than 15 pounds per day from miscellaneous metal parts coating, is subject to the emission limitations in subdivision 22a–174–20(s)(3). Therefore, since Sikorsky exceeds this threshold, the booths at Sikorsky coating miscellaneous metal parts would be subject to the requirements of subsection 22a–174–20(s).

Additionally, section 182(b)(2)(C) of the Clean Air Act, as amended, requires that the State define RACT for all major stationary of VOCs that are located in the nonattainment area and for which a CTG has not been issued. Therefore, this RACT determination is still necessary because not all of the VOC emitting operations at Sikorsky are subject to either 22a–174–20(l) and 22a–174–20(s). This RACT determination defines and establishes RACT for those otherwise unregulated operations, as required by section 182(b)(2)(C) of the amended Clean Air Act.

II. Technical Addenda

Subsequent to the finalization of Order No. 8010 and the publication of the proposed rulemaking notice to incorporate the order into the Connecticut SIP, on August 31, 1991, Sikorsky submitted a request to Connecticut for the approval of an alternative emission reduction plan (AERP), as allowed by section 22a–174–20(cc). The AERP involved the "banking" of VOC credit resulting from the reformulation of certain coatings and the shutdown of degreasing equipment, for use in complying with the VOC emission limitations in Order No. 8010. On April 3 and 8, 1992, Sikorsky submitted revised versions of the AERP request.

Additionally, on March 1, 1993, Sikorsky submitted an analysis of its coating operations. This analysis showed that several coatings were not able to comply with the limits of Order No. 8010. EPA met with Connecticut and Sikorsky during the Spring of 1993 to discuss the analysis as well as the potential for using an emissions average for compliance with the limits in Order No. 8010. At that time, EPA and Connecticut also discussed the possibility of further defining the source specific coating limits, based on the limits promulgated in several air quality management districts in California and EPA's preliminary drafts of the CTG for aerospace coating operations.

Based on that meeting, Sikorsky revised the draft AERP which was then submitted to Connecticut on May 6, 1994. During 1994 and 1995, EPA worked with Connecticut to draft two technical addenda to Order 8010: Addendum A, which sets source specific coating limits for a number of specialty coatings; and, Addendum B which sets the conditions for the use of emissions averaging as a compliance method at the Stratford facility. On October 6, 1995, Connecticut proposed the 2 addenda for public comment and on November 13, 1995, a public hearing was held.

On February 16, 1996, Connecticut submitted the two final addenda, with Order No. 8010, as a revision to the SIP. On July 3, 1996, EPA deemed the package administratively and technically complete.

This action will have a beneficial effect on air quality. This action is being taken under section 110 of the Clean Air Act.

Issues

One issue associated with our approval is that Order No. 8010 and the related Connecticut air regulations, particularly subsections 22a–174–20(l) and 22a–174–20(s), contain overlapping requirements that Sikorsky must meet to be in compliance with RACT in Connecticut. Order No. 8010 will insure compliance with that State order only. Independent requirements found in subsections 22a–174–20(l) and 22a–174–20(s), Connecticut's metal cleaning and miscellaneous metal parts and products surface coating regulations, also apply to some of Sikorsky's operations. Therefore, where more than one requirement or emission limit applies, Sikorsky will need to meet the more stringent requirement or limit.

Another issue associated with this rulemaking is related to the temporary

use of banked perchloroethylene (perc) emissions in the emissions average allowed by Addendum B of Order No. 8010. EPA excluded perc from the definition of VOC on February 7, 1996 (61 FR 4588). However, in the notice, EPA acknowledged that where perc reductions had been banked as VOC credits, the exclusion of perc from the definition of VOC raised questions as to the future value of those credits. In that notice, EPA deferred the decision of whether banked perc credits could be used in future emission trading transactions, leaving the decision to be worked out between EPA and individual States.

In Connecticut, EPA believes that there are a number of reasons that the use of these credits at Sikorsky's Stratford facility is merited. First, the perc reductions in Addendum B were the result of a voluntary phase out of a number of solvent degreasers at the Stratford facility, as part of a pollution prevention effort which began in 1987. Sikorsky applied to bank these credits in 1991 and again in 1992, prior to EPA's proposed exclusion of perc from the definition of VOC. Second, the emissions average, or bubble, has been designed to limit both the timeframe and quantity of the perc reductions as VOC credits. In addition to the 20% reduction of the daily allowable emissions required by the applicable guidance at the time Sikorsky applied, EPA's Emission Trading Policy Statement of December 1986, a 50% discount has been applied to the VOC credits from perc at Sikorsky. Additionally, Addendum B only allows the discounted perc credits to be used in the bubble until January 1, 2000. Third, since Addendum B limits the potential use of VOC credits from perc in this bubble to the lowest of 338.7 pounds per day, 2032.2 pounds per week, and 3848 pounds per year (1.92 tons per year), such use will not interfere with RFP. And finally, since the use of the VOC credits from perc is not authorized beyond 1999, the use of the perc credits will not interfere with any future attainment plan.

A final issue with Order No. 8010 is the "Notice of Noncompliance" sections of each Addendum to the order. This provision requires Sikorsky to report to DEP any failure to comply with the requirements of the order and to propose dates by which Sikorsky will come into compliance. These sections end with the following sentence:

> Notification by Respondent [Sikorsky] shall not excuse noncompliance or delay, and the Commissioner's approval of any compliance dates proposed shall not excuse noncompliance or delay *unless specifically so stated by the Commissioner in writing.*

Addendum A, section 6 and Addendum B, section 5, respectively (emphasis added). Any written approval of noncompliance by DEP pursuant to the terms of this order shall operate solely as a matter of state law. Such approval cannot revise the SIP requirements approved in this order (see 42 U.S.C. 7410(i)), shall not be binding on EPA, and would not preclude EPA or citizens from enforcing the requirements of this order as part of the SIP pursuant to the federal Clean Air Act.

Final Action

EPA review of the submittal for Sikorsky Aircraft Corporation, including the State Order No. 8010, Addendum A, and Addendum B, indicates that Connecticut has sufficiently defined VOC RACT for the non-CTG VOC emission sources at the Stratford facility. Although on June 22, 1988 (53 FR 23416), EPA published a Notice of Proposed Rulemaking (NPR) proposing to approve Order No. 8010 for this facility, Connecticut subsequently added two technical addenda to the order. Therefore, rather than finalizing the earlier proposal for Order No. 8010 and separately taking action on the two addenda, EPA is approving State Order No. 8010, Addendum A, and Addendum B, into the SIP at this time.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 10, 1998 unless adverse or critical comments are received by March 11, 1998.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. 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 April 10, 1998.

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.

III. Administrative Requirements

A. Executive Order 12866

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. 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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator 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).

C. Unfunded Mandates

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

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

EPA has determined that the approval action promulgated 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 approves 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.

D. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 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).) EPA encourages interested parties to comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal.

List of Subjects in 40 CFR Part 52

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

Note: Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: December 31, 1997.

Patricia L. Meany,

Acting Regional Administrator, Region I.

Part 52 of 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 H—Connecticut

2. Section 52.370 is amended by adding paragraph (c)(60) to read as follows:

§ 52.370 Identification of plan.

* * * * * *

(c) * * *

(60) Revisions to the State Implementation Plan submitted by the Connecticut Department of Environmental Protection on February 16, 1996.

(i) Incorporation by reference.

(A) Letter from the Connecticut Department of Environmental Protection dated February 16, 1996, submitting a revision to the Connecticut State Implementation Plan.

(B) State Order No. 8010 dated October 25, 1989 for Sikorsky Aircraft Corporation, effective on January 29, 1990, as well as Addendum A and Addendum B to Order No. 8010, effective on February 7, 1996 and September 29, 1995, respectively. The State order and two addenda define and impose RACT on certain VOC emissions at Sikorsky Aircraft Corporation in Stratford, Connecticut

* * * * *

3. In § 52.385, Table 52.385 is amended by adding a new entry to existing state citation for Section 22a-174–20, "Control of Organic Compound Emissions" to read as follows:

§ 52.385 EPA—approved Connecticut regulations.

* * * * *

TABLE 52.385.—EPA-APPROVED REGULATIONS

Connecticut State citation	Title/subject	Dates		Federal Register citation	Section 52.370	Comments/description
		Date adopted by State	Date approved by EPA			
*	*	*	*	*	*	*
22a–174–20	Control of organic compound emissions.	1/29/90, 9/29/95, & 2/7/96.	2/9/98	63 FR 6484	(c)(60)	VOC RACT for Sikorsky Aircraft Corporation in Stratford.
*	*	*	*	*	*	*

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ017–0008; FRL–5957–6]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval and limited disapproval of a revision to the Arizona State Implementation Plan (SIP) proposed in the **Federal Register** on December 17, 1997. This final action will incorporate this rule into the federally approved SIP. The intended effect of this action is to regulate volatile organic compound (VOC) emissions according to the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rule controls VOC emissions from various surface coating operations using primarily metal and plastic

substrates. Thus, EPA is finalizing a simultaneous limited approval and limited disapproval under CAA provisions regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas. As a result of this limited disapproval, EPA will be required under the CAA to impose highway funding or emission offset sanctions unless Arizona submits and EPA approves corrections to the identified deficiencies within eighteen months of the effective date of this disapproval. Moreover, EPA will be required to promulgate a Federal implementation plan (FIP) unless the deficiencies are corrected within twenty-four months of the effective date of this disapproval.

EFFECTIVE DATE: This action is effective on March 11, 1998.

ADDRESSES: Copies of Rule 336 and EPA's evaluation report are available for public inspection at EPA's Region 9 office during normal business hours. Copies of the submitted rule are also available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1226.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3003 North Central Avenue, Phoenix, AZ 85012.

Maricopa County Environmental Services Department, 2406 S. 24th Street, Suite E–214, Phoenix, AZ 85034.

FOR FURTHER INFORMATION CONTACT: Jerald S. Wamsley, Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1226.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rule being approved into the Arizona SIP is Maricopa County Rule 336, Surface Coating Operations. This rule was submitted by the Arizona Department of Environmental Quality (ADEQ) to EPA on February 26, 1997.

II. Background

On December 17, 1997 in 62 FR 66040, EPA proposed granting a limited approval and limited disapproval of Rule 336, Surface Coating Operations and incorporating the rule into the Arizona SIP. Rule 336 was adopted by Maricopa County on June 19, 1996. This rule was submitted by the Arizona Department of Environmental Quality to EPA on February 26, 1997. This rule was submitted in response to EPA's 1988 SIP Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment 1990 Clean Air Act. A detailed discussion of the background for Rule 336 and nonattainment areas is provided in the proposed rule cited above.

EPA has evaluated Rule 336 for consistency with the requirements of the CAA, EPA regulations, and EPA's interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the proposed rule. EPA is finalizing the limited approval of this rule to strengthen the SIP and finalizing the limited disapproval requiring the correction of the remaining deficiencies within Rule 336.

Rule 336's VOC emission limits conform to the respective CTG or ACT requirement and the rule contains adequate record keeping and test method provisions for monitoring the compliance of regulated facilities. However, several portions of the rule are unclear or contradict the subject CTG. The following sections should be amended to be consistent with the applicable CTG and EPA policy:

—Section 306.4, Exemptions, Special Facilities/Operations,

—Section 306.5, Exemptions, Small Sources, and

—Section 402, Administrative Requirements, Minimal Use Days.

A detailed discussion of Rule 336's provisions and EPA's evaluation has been provided in the proposed rule and in the technical support document (TSD) available at EPA's Region IX office (TSD dated October 1997).

III. Response to Public Comments

A 30-day public comment period was provided in 62 FR 66040. EPA received no comments on this proposed rule.

IV. EPA Action

EPA is finalizing a limited approval and a limited disapproval of Rule 336. The limited approval of this rule is finalized under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited in the sense that Rule 336 strengthens the SIP. However, while Rule 336 strengthens the SIP, it does not meet the section 182(a)(2)(A) CAA requirement because of the rule's deficiencies discussed in the proposed rule. Thus, to strengthen the SIP, EPA is granting limited approval of Rule 336 under sections 110(k)(3) and 301(a) of the CAA. This action approves Rule 336 into the SIP as a federally enforceable rule.

At the same time, EPA is finalizing the limited disapproval of Rule 336 because it contains deficiencies that have not been corrected as required by section 182(a)(2)(A) of the CAA, and, as such, the rule does not meet the requirements of Part D of the Act. As stated in the proposed rule, upon the effective date of this final action, the eighteen month clock for sanctions and the twenty-four month FIP clock will begin. (See Sections 179(a) and 110(c) of the CAA.) If the State does not submit the required corrections and EPA does not approve the submittal within eighteen months of this final action, either the highway sanction or the offset sanction will be imposed at the eighteen month mark. It should be noted that Rule 336 has been adopted by Maricopa County and is in effect within the county. EPA's limited disapproval action will not prevent Maricopa County, the State of Arizona, or EPA from enforcing Rule 336.

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.

SIP approvals under sections 110 and 301, 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, 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 Clean Air Act forbids EPA to base its action 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 ("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 approval action promulgated 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of Arizona was approved by the Director of the Federal Register on July 1, 1982.

Dated: January 15, 1998.

David P. Howekamp,

Acting Regional Administrator, Region IX.

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 D—Arizona

2. Section 52.120 is amended by adding paragraph (c)(83)(i)(B) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(83) * * *

(i) * * *

(B) Rule 336, adopted on July 13, 1988 and revised on June 19, 1996.

* * * * *

[FR Doc. 98–3023 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 017–0007; FRL–5956–8]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan Revision, Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing the approval of revisions to the Arizona State Implementation Plan (SIP) proposed in the **Federal Register** on December 17, 1997. The revisions concern rules from the Maricopa County Environmental Services Department, Technical Services Division (MCESD). This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The revised rules control VOC emissions from solvent cleaning, petroleum solvent dry cleaning, rubber sports ball manufacturing, graphic arts, semiconductor manufacturing, vegetable oil extraction processes, wood furniture and fixture coating, wood millwork coating, and loading of organic liquids. Thus, EPA is finalizing the approval of these revisions into the Arizona 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.

EFFECTIVE DATE: This action is effective on March 11, 1998.

ADDRESSES: Copies of the rule revisions and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are available for inspection at the following locations:

Rulemaking Office (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, SW., Washington, DC 20460.

Arizona Department of Environmental Quality, 3003 North Central Avenue, Phoenix, AZ 85012.

Maricopa County Environmental Services Department, 2406 S. 24th Street, suite E–214, Phoenix, AZ 85034.

FOR FURTHER INFORMATION CONTACT: Andrew Steckel, Rulemaking Office, (AIR–4), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744–1185.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being approved into the Arizona SIP include: MCESD's Rules 331-Solvent Cleaning, 333-Petroleum Solvent Dry Cleaning, 334-Rubber Sports Ball Manufacturing, 337-Graphic Arts, 338-Semiconductor Manufacturing, 339-Vegetable Oil Extraction Processes, 342-Coating Wood Furniture and Fixture, 346-Coating Wood Millwork, and 351-Loading of Organic Liquids. These rules were submitted by the Arizona Department of Environmental Quality (ADEQ) to EPA on February 4, 1993 (Rule 339), August 31, 1995 (Rule 351), February 26, 1997 (Rules 331, 333, 334, 336, and 338) and March 4, 1997 (Rules 342, 337, and 346) respectively.

II. Background

On December 17, 1997 in 62 FR 66043, EPA proposed to approve the following rules into the Arizona SIP: MCESD's Rules 331-Solvent Cleaning, 333-Petroleum Solvent Dry Cleaning, 334-Rubber Sports Ball Manufacturing, 337-Graphic Arts, 338-Semiconductor Manufacturing, 339-Vegetable Oil Extraction Processes, 342-Coating Wood Furniture and Fixture, 346-Coating Wood Millwork, and 351-Loading of Organic Liquids. Rules 331, 333, 334, 338, were adopted by MCESD on June 19, 1996, Rule 339 on November 16, 1992, Rules 337, 342 and 346 on November 20, 1996, and Rule 351 on February 15, 1995. These rules were submitted by ADEQ to EPA on February 4, 1993 (Rule 339), August 31, 1995 (Rule 351), February 26, 1997 (Rules 331, 333, 334, 336, and 338) and March 4, 1997 (Rules 342, 337, and 346) respectively. These rules were submitted in response to EPA's 1988 SIP-Call and the CAA section 182(a)(2)(A) requirement that nonattainment areas fix their reasonably available control technology (RACT) rules for ozone in accordance with EPA guidance that interpreted the requirements of the pre-amendment Act. A detailed discussion of the background for each of the above rules and nonattainment areas is provided in the NPRM cited above.

EPA has evaluated all of the above rules for consistency with the requirements of the CAA and EPA regulations and EPA interpretation of these requirements as expressed in the various EPA policy guidance documents referenced in the NPRM cited above. EPA has found that the rules meet the applicable EPA requirements. A detailed discussion of the rule provisions and evaluations has been provided in 62 FR 66043 and in technical support documents (TSDs) available at EPA's Region IX office (TSDs dated September 1997 (Rules 333 and 351), October 1997 (Rules 334, 338, 339, 342, 346), and November 1997 (Rules 331 and 337).

III. Response to Public Comments

A 30-day public comment period was provided in 62 FR 66043. EPA did not receive any comments.

IV. EPA Action

EPA is finalizing action to approve the above rules for inclusion into the Arizona SIP. EPA is approving the submittal under section 110(k)(3) as meeting the requirements of section 110(a) and part D of the CAA. This approval action will incorporate these rules into the federally approved SIP. The intended effect of approving these rules is to regulate emissions of VOCs in accordance with the requirements of the CAA.

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.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator 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).

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 approval action promulgated 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 approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a "major" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 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, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the **Federal Register** on July 1, 1982.

Dated: January 15, 1998.

David P. Howekamp,

Acting Regional Administrator, Region IX.

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 D—Arizona

2. Section 52.120 is amended by adding paragraphs (c)(78)(i)(C), (c)(82)(i)(C), (c)(83) and (c)(85) to read as follows:

§ 52.120 Identification of plan.

* * * * *

(c) * * *

(78) * * *

(i) * * *

(C) Rule 339, adopted on November 16, 1992.

* * * * *

(82) * * *

(i) * * *

(C) Rule 351, revised on February 15, 1995.

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(83) New and revised rules and regulations for the Maricopa County Environmental Services Department-Air Pollution Control were submitted on February 26, 1997, by the Governor's designee.

(i) Incorporation by reference.

(A) Rules 331, 333, and 334, revised on June 19, 1996, and Rule 338, adopted on June 19, 1996.

* * * * *

(85) New and revised rules and regulations for the Maricopa County Environmental Services Department-Air Pollution Control were submitted on March 4, 1997, by the Governor's designee.

(i) Incorporation by reference.

(A) Rule 337, revised on November 20, 1996, and Rules 342, and 346, adopted on November 20, 1996.

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[FR Doc. 98–3022 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–85–1–7344a; FRL–5955–8]

Approval and Promulgation of Air Quality Plans, Texas; Revision to the Texas State Implementation Plan (SIP); Alternate Reasonably Available Control Technology (ARACT) Demonstration for Raytheon TI Systems, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving an Alternate Reasonably Available Control Technology (ARACT) for Raytheon TI Systems, Inc. (RTIS). This action results from a request, on January 9, 1997, by the Texas Governor asking for an exemption for RTIS from Texas Regulation V, Section 115.421. This regulation requires that volatile organic compound (VOC) emissions from the coating of miscellaneous metal parts and products shall not exceed 6.7 pounds per gallon of solids (or 3.5 pounds per gallon of coating) delivered to the application system. The approval is granted based on the technical and economic infeasibility of meeting 115.421 and additional control requirements specified in the State submittal.

DATES: This action is effective on April 10, 1998, unless notice is postmarked by March 11, 1998, that someone wishes to submit adverse or critical comments. If the effective date is delayed, timely notice will be published in the **Federal Register.**

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's petition and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, TX 78753. Anyone wishing to review this petition at EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7214.

SUPPLEMENTARY INFORMATION:

I. Background

Part D of the Clean Air Act (the Act) requires ozone nonattainment plans to include regulations providing for VOC emission reductions from existing sources through the adoption of Reasonably Available Control Technology (RACT). The EPA defined RACT in a September 17, 1979, **Federal Register** (FR) document (44 FR 53762) as:

> The lowest emission limitation that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

Through the publication of Control Technique Guideline (CTG) documents, EPA has identified pollution control levels that EPA presumes to constitute RACT for various categories of sources. Where the State finds the presumptive norm applicable to an individual source or group of sources, the State typically adopts requirements consistent with the presumptive norm. However, States may develop case-by-case RACT determinations if a particular facility cannot meet the presumptive norm of RACT set forth in the CTG. These case-by-case determinations are called ARACT determinations and are approved with the understanding that they demonstrate that no equivalent alternative technology is available and that no emission control equipment is technically or economically feasible.

RTIS is applying for an ARACT under this policy.

A. Raytheon TI Systems, Inc.

Located at Lemmon Avenue in Dallas, Texas, RTIS manufactures computer-related electronics for private, commercial and military use. As part of its manufacturing operations, RTIS uses solvents, inks, thinners and urethanes to coat metal components. It has reported VOC emissions exceeding the 6.7 pounds of VOC per gallon of solids limit on an individual line basis. Since the present method of coating uses a volatile solvent in amounts which exceed the limit under Texas Regulation V, Section 115.421(4) VOC emission standard, RTIS has requested an exemption under 115.427(a)(5)(B) which will allow them to use an alternative method to meet the RACT specifications.

B. Alternate RACT Analysis

EPA developed a guidance document entitled Guidance for developing an Alternate Reasonably Available Control Technology (RACT) Demonstration for the Tulsa Aerospace Industry, dated October 2, 1989. This document applies to the Aerospace industry and was applicable to RTIS's ARACT analysis as well. This document was issued for States and industries to follow in developing documents to justify deviation from the recommended CTG approach. The EPA has reviewed the RTIS ARACT proposal based on this guidance. A copy of this guidance document is included in the technical support document.

RTIS investigated the options available for reducing emissions from its surface coating operations. Among those were coating reformulation, enhanced application techniques that would improve transfer efficiency, facility redesign and add-on control equipment to reduce VOC emissions.

RTIS investigated the use of low-solvent coating technologies. Among those were high-solids coatings, water-borne coating and powder coatings. The current suppliers of surface coatings to RTIS were contacted to determine if such coatings were either currently available or soon to be available. Where substitute coatings were discovered, they have been incorporated into the provisions of this ARACT determination. For those coatings not replaced with low-solvent coatings, individual coating limits have been established.

In addition to researching alternate low solvent coatings and developing alternate VOC limits for other coatings, RTIS has investigated various high-transfer efficiency applications including electrostatic deposition, powder coating technology and hot spray units. RTIS reviewed five high volume low pressure (HVLP) application systems, and found one system to be ten to 30 percent more efficient than its competitors. RTIS selected this system and is currently expanding its use throughout the paint shop, whenever feasible. Electrostatic applicators were installed on one program, but the system did not perform as well as anticipated, and RTIS plans to discontinue use of this system and pursue expanded use of HVLP systems and powder coatings. RTIS evaluated powder coatings and identified four which met the customer's coating performance criteria. These coatings are being introduced into production.

As mentioned above, RTIS investigated the use of add-on control equipment in its operations. Control technology vendors were contacted to determine if such equipment could be suitable for RTIS's specific operations. Four primary types of abatement systems were considered: Regenerative thermal oxidation, carbon/zeolyte concentration with oxidation, ozonation and biological destruction. The total cost effectiveness estimates for the various types of add-on controls were prepared and analyzed for feasibility. Cost estimated were developed based on 4.8 tons per year of VOC removed at a minimum destruction efficiency of 95 percent for any system. The actual concentration of VOC in the exhaust stream and the total volume of air to be treated are the primary factors considered when determining cost effectiveness. While there are several add-on technically feasible systems available, RTIS Lemmon Avenue facility concluded that none are economically cost effective.

The EPA reviewed the information developed by RTIS and agrees that the majority of the costs should not be considered cost effective in this situation relative to the cost effectiveness assumed in the CTG for miscellaneous metal parts and products. Again, please refer to the EPA's technical support document for a complete listing of the vendors contacted, emission reduction calculations for various control systems, as well as the cost determinations for add-on controls.

RTIS's request for exemption under Texas Regulation V, Section 115.427(6)(B) is approved based on the information provided by RTIS and special stipulations specified in the state submittal. The EPA's review of the information provided by the State of Texas and RTIS has shown that presently no low VOC applicable coatings are commercially available and that no add-on emission controls are economically feasible. They believe that the RACT requirements in Section 115.421 are not reasonable for RTIS and are granting RTIS an ARACT as the exemption from the regulation. The EPA has determined that the VOC emission limit and special stipulations discussed in the State submittal constitute RACT for RTIS. Please see the State's submittal and Commission Order for details on the VOC emission limit and the specific stipulations which constitute RACT for RTIS.

II. Final Action

The EPA is approving Texas' site-specific RACT determination issued by the State of Texas under Commission Order Number 961180-SIP, dated December 4, 1996, as a revision to the Texas SIP. The EPA has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the Act. The EPA is publishing this action without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action is effective April 10, 1998, unless adverse or critical comments are postmarked by March 11, 1998. If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received on this action, the public is advised that this action is effective April 10, 1998.

The EPA has reviewed this request for conformance with the provisions of the Act and has determined that this action conforms to those requirements.

III. Administrative Requirements

A. Executive Order (E.O.) 12866

The Office of Management and Budget 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. See 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.

The SIP approvals under section 110 and subchapter I, part D of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not 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 Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. See *Union Electric Co.* v. *U.S.* EPA, 427 U.S. 246, 25566 (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, 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.

The EPA has determined that the approval action promulgated 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 approves preexisting requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's **Federal Register**. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 10, 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) of the Act.

List of Subjects in 40 CFR Part 52

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

Dated: January 9, 1998.

Lynda F. Carroll,

Acting Regional Administrator, Region VI.

40 CFR part 52 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 SS—Texas

2. Section 52.2270 is amended by adding paragraph (c)(108) to read as follows:

§ 52.2270 Identification of Plan.

* * * * *

(c) * * *

(108) A revision to the Texas State Implementation Plan to adopt an alternate control strategy for the surface coating processes at Raytheon TI Systems, Inc., Lemmon Avenue Facility.

(i) Incorporation by reference.

(A) Commission Order Number 96–1180–SIP issued and effective December 4, 1996, for Texas Instruments, Inc., prior owner of the Lemmon Avenue facility, approving an Alternate Reasonably Available Control Technology (ARACT) demonstration for its Lemmon Avenue facility. Raytheon TI Systems assumed operating responsibility for this facility on July 3, 1997.

(B) A letter from the Governor of Texas dated January 9, 1997, submitting the TI ARACT to the Regional Administrator.

(ii) Additional material. The document prepared by the Texas Natural Resource Conservation Commission titled "A Site-Specific Revision to the SIP Concerning the Texas Instruments Lemmon Avenue Facility."

[FR Doc. 98–3180 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

49 CFR Parts 60 and 61

[FRL–5960–4]

Technical Amendments to Standards of Performance for New Stationary Sources National Emission Standards for Hazardous Air Pollutants Addition of Method 29 to Appendix A of Part 60 and Amendments to Method 101A of Appendix B of Part 61; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On April 25, 1996 (61 FR 18260), the Environmental Protection Agency published in the **Federal Register** a final rule adding Method 29, "Determination of Metals Emissions from Stationary Sources," to appendix A of part 60, and making amendments to Method 101A of appendix B of part 61, which established an effective date of April 25, 1996. This document corrects the effective date of the rule to February 9, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 9, 1998.

The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register February 9, 1998.

FOR FURTHER INFORMATION CONTACT:

Tom Eagles, OAR, at (202) 260–5585.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on April 25, 1996 (61 FR 18260) by operation of law, the rule did not take effect on April 15, 1996, as stated therein. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since April 25, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the April 25, 1996, **Federal Register** should be penalized if they were complying with the rule as promulgated.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in the April 25, 1996, **Federal Register** document

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 9, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3016 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[FRL–5959–1]

Technical Amendments to Clean Air Act Final Interim Approval of Operating Permits Programs; Delegation of Section 112 Standards; State of Massachusetts; Correction; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final interim approval correction; correction of effective date under CRA.

SUMMARY: On May 15, 1996, EPA promulgated interim approval of the 40 CFR part 70 Operating Permits Program for the Commonwealth of Massachusetts. That document correctly identified the effective date of the approval as May 15, 1996. The May 15, 1996, document also amended the text of 40 CFR part 70, Appendix A, to reflect the effective date of the interim approval; however, an incorrect date was added to Appendix A. On June 20, 1996 (61 FR 31442) EPA published a final rule amending 40 CFR part 70, Appendix A, to correct the effective date in Appendix A to May 15, 1996. This document corrects the effective date of the June 20, 1996, rule to February 9, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Robyn McCarville, EPA Region I, at (617) 565–9128.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the June 20, 1996, rule as required; thus, although the rule was promulgated on June 20, 1996 (61 FR 31442) by operation of law, the rule did not take effect. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the June 20, 1996, rule consistent with the provisions of the CRA. The effective date of the May 15, 1996, interim approval (61 FR 24460) is not changed.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements

of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 20, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2).

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Order for the underlying rule is discussed in the May 15, 1996, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 9, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date. Pursuant to section 307(b)(1) of the Clean Air Act, challenges to this amendment must be brought within 60 days of publication of the amendment.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3014 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[FRL–5959–6]

Technical Amendments to Bifenthrin; Pesticide Tolerance; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On June 12, 1996 (61 FR 29676), the Environmental Protection Agency published in the **Federal Register** a final rule establishing a tolerance for residues of the pesticide bifenthrin in or on the raw agricultural commodity strawberries, which established an effective date of June 12, 1996. This document corrects the effective date of the rule to February 9, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Angela Hofmann, OPPTS, at (202) 260–2922.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above as required; thus, although the rule was promulgated on June 12, 1996 (61 FR 29676), by operation of law, the rule did not take effect on June 12, 1996, as stated. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 408(e)(2) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e)(2), provides that the Administrator, before issuing a final rule under section 408(e)(1), shall issue a proposed rule and allow 60 days for public comment unless the Administrator for good cause finds that it would be in the public interest to provide a shorter period. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consistent with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and Public procedure are unnecessary. The Agency finds that this constitutes good cause under section 408(e)(2). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 12, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 808(2). Under section 408(g)(1) of FFDCA, today's rule is effective upon publication. Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the June 12, 1996, **Federal Register** should be penalized if they were complying with the rule as promulgated.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State official as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statue, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in June 12, 1996, **Federal Register** document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory

Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 9, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3013 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[FRL–5959–4]

Technical Amendments to Ethane, 1,1,1 Trifluoro-; Revocation of a Significant New Use Rule; Correction of Effective Date Under Congressional Review Act (CRA)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction of effective date under CRA.

SUMMARY: On June 27, 1996 (61 FR 33374), the Environmental Protection Agency published in the Federal Register a final rule revocating a significant new use rule promulgated under section 5(a)(2) of the Toxic Substances Control Act for ethane, 1,1,1 trifluoro, based on receipt of new data, which established an effective date of July 29, 1996. This document corrects the effective date of the rule to February 9, 1998 to be consistent with sections 801 and 808 of the Congressional Review Act (CRA), enacted as part of the Small Business Regulatory Enforcement Fairness Act, 5 U.S.C. 801 and 808.

EFFECTIVE DATE: This rule is effective on February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Angela Hofmann, OPPTS at (202) 260–2922.

SUPPLEMENTARY INFORMATION:

I. Background

Section 801 of the CRA precludes a rule from taking effect until the agency promulgating the rule submits a rule report, which includes a copy of the rule, to each House of Congress and to the Comptroller General of the General Accounting Office (GAO). EPA recently discovered that it had inadvertently failed to submit the above rule as required; thus, although the rule was promulgated on June 27, 1996 (61 FR 33374) by operation of law, the rule did not take effect on July 29, 1996, as stated therein. Now that EPA has discovered its error, the rule is being submitted to both Houses of Congress and the GAO. This document amends the effective date of the rule consistent with the provisions of the CRA.

Section 553 of the Administration Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, an agency may issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because EPA merely is correcting the effective date of the promulgated rule to be consisted with the congressional review requirements of the Congressional Review Act as a matter of law and has no discretion in this matter. Thus, notice and public procedure are unnecessary. The Agency finds that this constitutes good cause under 5 U.S.C. 553(b)(B). Moreover, since today's action does not create any new regulatory requirements and affected parties have known of the underlying rule since June 27, 1996, EPA finds that good cause exists to provide for an immediate effective date pursuant to 5 U.S.C. 553(d)(3) and 808(2). Because the delay in the effective date was caused by EPA's inadvertent failure to submit the rule under the CRA, EPA does not believe that affected entities that acted in good faith relying upon the effective date stated in the June 27, 1996, Federal Register should be penalized if they were complying with the rule as promulgated.

II. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a "significant regulatory action" and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). EPA's compliance with these statutes and Executive Orders for the underlying rule is discussed in June 27, 1996, Federal Register document.

Pursuant to 5 U.S.C. 801(a)(1)(A), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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 General Accounting Office; however, in accordance with 5 U.S.C. 808(2), this rule is effective on February 9, 1998. This rule is not a "major rule" as defined in 5 U.S.C. 804(2).

This final rule only amends the effective date of the underlying rule; it does not amend any substantive requirements contained in the rule. Accordingly, to the extent it is available, judicial review is limited to the amended effective date.

Dated: January 30, 1998.

Carol Browner,

Administrator.

[FR Doc. 98–3027 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket Nos. 97–142, 95–22, 96–111; CC Docket No. 93–23; RM–7931; ISP–92–007; FCC 98–10]

Foreign Participation in the U.S. Telecommunications Market and Non-U.S.-Licensed Satellites Providing Domestic and International Service in the United States

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission published in the Federal Register of December 4, 1997, a summary of a Report and Order that it adopted on November 25, 1997, that adopted a new standard for foreign

participation in the U.S. satellite services market consistent with the United States' obligations under the WTO Basic Telecom Agreement, 62 FR 64167. Certain of the rules adopted in that order contained new or modified information collections. This document announces the effective date of those rules.

EFFECTIVE DATE: The amendments to §§ 25.113, 25.115, 25.130, 25.131, and 25.137, published at 62 FR 64167, will become effective on February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Kathleen Campbell or Linda Haller at (202) 418–0719.

SUPPLEMENTARY INFORMATION: 1. This is a summary of the Commission's order, FCC 98–10, adopted and released January 29, 1998. The complete text of this order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, DC 20036, telephone: 202–857–3800; fax: 202–857–3805.

2. On November 25, 1997, the Commission adopted order FCC 97–398 in IB Docket Nos. 97–142 and 95–22, and the Commission adopted order FCC 97–399 in IB Docket No. 96–111, CC Docket No. 93–23, RM–7931, and File No. ISP–92–007. Summaries of both orders were published in the **Federal Register**. See 62 FR 64741 (Dec. 9, 1997) (FCC 97–398); 62 FR 64167 (Dec. 4, 1997) (FCC 97–399). In each of those orders, the Commission stated that the policies, rules, and requirements would take effect thirty days after publication in the **Federal Register** or in accordance with 5 U.S.C. 801(a)(3) and 44 U.S.C. 3507 and that the Commission would publish a document at a later date announcing the effective date. The Commission also reserved the right to reconsider the effective dates if the WTO Basic Telecom Agreement did not take effect on January 1, 1998. The WTO Basic Telecom Agreement will enter into force on February 5, 1998.

3. Certain of the amendments to the Commission's rules imposed new or modified information collection requirements. The new or modified information collection requirements imposed in FCC 97–398 were approved by the Office of Management and Budget (OMB) on January 21, 1998. See OMB No. 3060–0686. The Commission expects to receive OMB approval of the new or modified information collection requirements imposed in FCC 97–399 before February 9, 1998.

4. Because of congressional review procedures required by the Contract with America Advancement Act, 5 U.S.C. 801–808, the rules adopted in the *Foreign Participation Order*, FCC 97–398, cannot become effective before February 9, 1998. In FR Doc. No. 98–2852, 63 FR 5743 (Feb. 4, 1998), the Commission announced that February 9, 1998, would be the effective date of the rules adopted in FCC 97–398. The Commission finds that, to aid consistent application of the new policies, it would serve the public interest for the rules adopted in both orders to become effective simultaneously. We therefore find that it serves the public interest for the rules adopted in FCC 97–399 to become effective on February 9, 1998.

5. Therefore, *it is ordered* that the policies, rules, and requirements established in FCC 97–399 shall take effect on February 9, 1998, following approval by the Office of Management and Budget. If OMB approval is not received by February 9, a notice will be published in the **Federal Register** stating that the information collections are not yet in effect.

6. This publication satisfies our statement that the Commission would publish a document announcing the effective date of the rules.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 98–3218 Filed 2–6–98; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 63, No. 26
Monday, February 9, 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

Agricultural Marketing Service

7 CFR Part 205

[TM–98–00–2]

National Organic Program; Extension of Comment Period on Proposed Rule

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Extension of comment period on the National Organic Program proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is extending the public comment period on the proposed rule to establish a National Organic Program (NOP) from March 16, 1998 to April 30, 1998. This proposed rule was published in the **Federal Register** on December 16, 1997.

DATES: Comments must be submitted on or before April 30, 1998.

ADDRESSES: Interested persons are invited to submit written comments on this proposal to: Eileen S. Stommes, Deputy Administrator, USDA–AMS–TM–NOP, Room 4007 South Building, Ag Stop 0275, P.O. Box 96456, Washington, D.C. 20090–6456. Comments also may be sent by fax to (202) 690–4632. Additionally, comments may be sent via the Internet through NOP's homepage at: http://www.ams.usda.gov/nop. See the **SUPPLEMENTARY INFORMATION** for further details on submitting comments.

FOR FURTHER INFORMATION CONTACT: Michael I. Hankin, Senior Agricultural Marketing Specialist, USDA–AMS–TM–NOP, Room 2510 South Building, P.O. Box 96456, Washington, D.C. 20090–6456; Telephone: (202) 720–3252; Fax: (202) 690–3924.

SUPPLEMENTARY INFORMATION:

Purpose

A proposed rule to establish a NOP was published in the **Federal Register** (62 FR 65849) on December 16, 1997. The program is proposed under the Organic Foods Production Act of 1990, as amended (7 U.S.C. 6501 *et. seq.*), which requires the establishment of national standards governing the marketing of certain agricultural products as organically produced to facilitate commerce in fresh and processed food that is organically produced and to assure consumers that such products meet consistent standards. This program would establish national standards for the organic production and handling of agricultural products, which would include a National List of synthetic substances approved for use in the production and handling of organically produced products. It also would establish an accreditation program for State officials and private persons who want to be accredited to certify farm, wild crop harvesting, and handling operations that comply with the program's requirements, and a certification program for farm, wild crop harvesting, and handling operations that want to be certified as meeting the program's requirements. The program additionally would include labeling requirements for organic products and products containing organic ingredients, and enforcement provisions. Further, the proposed rule provides for the approval of State organic programs and the importation into the United States of organic agricultural products from foreign programs determined to have requirements at least equivalent to those of the NOP.

Submission of Comments

Comments may be submitted, electronically, in writing or by fax. Written comments submitted by regular mail and faxed comments should be identified with the National Organic Program Proposed Rule Docket Number: TMD–94–00–2. Multiple page comments submitted by regular mail should not be stapled or clipped to facilitate the timely scanning and posting of these comments to NOP homepage. Persons submitting written or faxed comments are requested to identify the topic and section number, if applicable, to which the comment refers: for example, for a comment regarding feed for organic livestock, reference Livestock and section 205.13. Topics should be selected from the following list: General, Proposed Effective Date, Regulatory Impact Assessment, Regulatory Flexibility Analysis, Paperwork Reduction Act, Definitions, Applicability (section 205.3), Crops, Livestock, Handling, National List, Labeling, Certification, Accreditation, State Programs, Fees, Compliance, Appeals, and Equivalency.

It is our intention to have all comments, whether mailed, faxed or submitted via the Internet, available for viewing the NOP homepage at http://www.ams.usda.gov/nop in a timely manner. Comments submitted in response to this proposal will be available for viewing at USDA–AMS, Transportation and Marketing, Room 2945-South Building, 14th and Independence Ave., S.W., Washington, D.C., from 9:00 a.m. to 1:00 p.m., and from 2:00 p.m. to 4:30 p.m., Monday through Friday (except official Federal holidays). Persons wanting to visit Department of Agriculture, South Building to view comments received in response to this proposal are requested to make an appointment in advance by calling Martha Bearer at (202) 720–8037.

Reasons for Granting an Extension

The National Organic Standards Board (NOSB), an advisory board to the Secretary regarding the program, has requested an extension of the comment period. NOSB requested an extension to accommodate the timing of the next NOSB meeting, which NOSB intends to conduct during the week of March 16–20, 1998. The schedules of the individual members of NOSB prevented holding NOSB meeting prior to March 15. At the meeting, details of which will be announced shortly in the **Federal Register**, NOSB intends to review Committee reports and prepare NOSB comments to the proposed rule for submission to USDA.

Others have also requested an extension of the comment period. These individuals and organizations include: State government officials, manufacturers, and a trade organization representing the organic industry. Examples of reasons given for requesting an extension of the comment period include the length and complexity of the proposed rule, and the time required for commenters to arrange and conduct listening sessions to obtain input from constituents who will be affected by the finial regulations.

After careful consideration of the requests submitted to the Agency, AMS has decided to grant an extension of the

comment period for an additional 45 days, or until April 30, 1998. This extension of the comment period will provide interested persons a total of 135 days to review the proposed rule and submit comments. AMS believes that this 45 day extension will provide a sufficient period of time for all commenters so that a further extension would be unnecessary.

Accordingly, AMS is extending the comment period on the NOP proposed rule until April 30, 1998.

Authority: 7 U.S.C. 6501–6522.

Dated: February 5, 1998.

Eileen S. Stommes,

Deputy Administrator, Transportation and Marketing.

[FR Doc. 98–3285 Filed 2–5–98; 11:09 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–151–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes. This proposal would require repetitive inspections for excessive wear of the aileron control cables, cable guides, and cable pulleys located at the rear wing spars, and corrective actions, if necessary. This proposal also would require repetitive replacement of the control cables and cable guides with new or serviceable components. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to detect and correct excessive wear on the aileron control cables, cable guides, and cable pulleys located at the rear wing spars, which could result in broken aileron control cables and consequent reduced controllability of the airplane.

DATES: Comments must be received by March 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–151–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 Saab Aircraft AB, Saab Aircraft Product Support, S–581.88, Linköping, Sweden. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–151–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–151–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfartsverket (LFV), which is the airworthiness authority for Sweden, notified the FAA that an unsafe condition may exist on certain Saab Model SAAB 2000 series airplanes. The LFV advises that it has received reports of excessive wear of the aileron control cables at the positions of the cable guides located at the rear wing spars. The cause of this wear has been attributed to chafing that occurred between the cables and the cable guides. Such wear, if not detected and corrected in a timely manner, could result in broken aileron control cables and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Saab has issued Service Bulletin 2000–27–033, dated April 29, 1997, which describes procedures for repetitive inspections for excessive wear of the aileron control cables, cable guides, and cable pulleys located at the rear wing spars, and corrective actions, if necessary. These corrective actions include replacement of discrepant cables, cable guides, and pulleys with serviceable parts; and rotation of the cable pulleys to ensure that the bearings are not damaged. The service bulletin also describes procedures for repetitive replacement of the control cables and cable guides with new or serviceable control cables and cable guides. The LFV classified this service bulletin as mandatory and issued Swedish airworthiness directive SAD No. 1–111, dated April 30, 1997, in order to assure the continued airworthiness of these airplanes in Sweden.

FAA's Conclusions

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

Explanation of Requirements of 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.

Interim Action

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

The FAA estimates that 3 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the proposed inspection required by this AD on U.S. operators is estimated to be $180, or $60 per airplane, per inspection cycle.

It would take approximately 8 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed replacement required by this AD on U.S. operators is estimated to be $1,440, or $480 per airplane, per replacement.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

SAAB Aircraft AB: Docket 97–NM–151–AD.

Applicability: Model 2000 series airplanes, serial numbers 004 through 059 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 detect and correct excessive wear of the aileron control cables, cable guides, and cable pulleys located at the rear wing spars, which could result in broken aileron control cables and consequent reduced controllability of the airplane, accomplish the following:

(a) Inspect to detect discrepancies of the left- and right-hand aileron control cables, cable guides, and cable pulleys at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable, in accordance with Saab Service Bulletin 2000–27–033, dated April 29, 1997. Repeat the inspection thereafter at intervals not to exceed 500 flight hours. If any discrepancy is found during any inspection required by this AD, prior to further flight, perform corrective action in accordance with the service bulletin.

(1) For airplanes on which Saab Modification 5784 has been installed: Inspect at the later of the times specified in paragraphs (a)(1)(i) and (a)(1)(ii) of this AD.

(i) Prior to the accumulation of 1,800 total flight hours; or within 1,800 flight hours after accomplishment of the modification or replacement of any control cable; whichever occurs latest. Or

(ii) Within 200 flight hours after the effective date of this AD.

(2) For airplanes on which Saab Modification 5784 has not been installed: Inspect at the later of the times specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD.

(i) Prior to the accumulation of 3,200 total flight hours, or within 3,200 flight hours after replacement of any control cable, whichever occurs later. Or

(ii) Within 200 flight hours after the effective date of this AD.

Note 2: Although the inspection schedules of this AD apply to both left- and right-hand wing cable systems, replacement of the cable, guide, or pulley on one wing only, prior to scheduled replacement, would result in subsequent staggered inspections for the components of the left- and right-hand cable systems.

(b) Replace the aileron control cables, cable guides, and cable pulleys with new or serviceable parts, as applicable; at the time specified in paragraph (b)(1) or (b)(2) of this AD, as applicable; in accordance with Saab Service Bulletin 2000–27–033, dated April 29, 1997.

(1) For airplanes on which Saab Modification 5784 has been installed: Replace at the later of the times specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this AD. Thereafter, repeat the inspection required by paragraph (a) of this AD at the time specified in paragraph (a)(1); and replace the control cables and cable guides thereafter prior to the accumulation of 3,200 flight hours after replacement of any control cable.

(i) Prior to the accumulation of 3,200 total flight hours; or within 3,200 flight hours after installation of the modification, or after replacement of any control cable; whichever occurs latest. Or

(ii) Within 200 flight hours after the effective date of this AD.

(2) For airplanes on which Modification 5784 has not been installed: Replace at the later of the times specified in paragraphs (b)(2)(i) and (b)(2)(ii) of this AD. Thereafter, repeat the inspections required by paragraph (a) of this AD at the time specified in paragraph (a)(2); and replace the control cables and cable guides thereafter prior to the accumulation of 6,200 flight hours following replacement of any control cable.

(i) Prior to the accumulation of 6,200 total flight hours, or within 6,200 flight hours after replacement of any control cable, whichever occurs later. Or

(ii) Within 200 flight hours after the effective date of this AD.

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

(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.

Note 4: The subject of this AD is addressed in Swedish airworthiness directive SAD No. 1–111, dated April 30, 1997.

Issued in Renton, Washington, on February 2, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–3129 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–337–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A310 and A300–600 series airplanes. This proposal would require a one-time, detailed visual inspection for discrepancies of the electrical bundles in the power generation compartment, and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent chafing and consequent damage to the electrical generation wires in the 101VU panel, which could result in a loss of electrical generation channels.

DATES: Comments must be received by March 11, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–337–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 97–NM–337–AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–337–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A310 and A300–600 series airplanes. The DGAC advises that an A300–600 series airplane experienced the loss of both main alternating current (AC) electrical generation channels during a landing rollout due to wire chafing and short circuiting of the electrical generation wires in the 101VU panel in the forward avionic compartment. Investigation revealed that such chafing may result if a cable-tie is missing, or if the wire bundle is routed too close to a bracket, or if the bundle is not properly formed and cables consequently balloon. Prior to the incident, the airplane's wiring in the associated area had been modified in accordance with Airbus Service Bulletins A300–24–6064 and A300–24–6058. The wiring discrepancy has been attributed to inadequate installation of this modification during production. A similar modification for Model A310 series airplanes could result in similar discrepancies on that model. Such discrepancies, if not corrected, could result in chafing and consequent damage to the electrical generation wires in the 101VU panel, which could result in a loss of electrical generation channels.

Explanation of Relevant Service Information

Airbus has issued All Operator Telex (AOT) 24–08, dated April 17, 1997, which describes procedures for a one-time, detailed visual inspection for discrepancies (damage, risk of chafing, loom ballooning, or loose or missing cable ties) of the electrical bundles in the power generation compartment, and corrective actions, if necessary. The corrective actions include repairing damaged wires, repositioning the bundles and securing the routing with cable ties to ensure adequate clearance, and checking certain clearances. The DGAC classified this AOT as mandatory and issued French airworthiness directive 97–152–225(B), dated July 16, 1997, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type

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

Explanation of Requirements of Proposed Rule

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

Cost Impact

The FAA estimates that 94 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $11,280, or $120 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:

Airbus: Docket 97–NM–337–AD.

Applicability: Model A310 and A300–600 series airplanes on which any of the following Airbus service bulletins (or earlier versions) has been accomplished: A310–24–2067, Revision 1, dated March 18, 1997; A310–24–2072, Revision 1, dated February 4, 1997; A300–24–6058, Revision 1, dated January 23, 1997; or A300–24–6064, Revision 1, dated February 4, 1997; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent chafing and consequent damage to the electrical generation wires in the 101VU panel, which could result in a loss of electrical generation channels, accomplish the following:

(a) Within 400 flight hours or 60 days after the effective date of this AD, whichever occurs first, perform a one-time, detailed visual inspection of the 101VU panel electrical bundles installation for any discrepancy, in accordance with Airbus All Operator Telex (AOT) 24–08, dated April 17, 1997. If any discrepancy is found, prior to further flight, correct the discrepancy in accordance with the AOT.

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

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

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

Note 3: The subject of this AD is addressed in French airworthiness directive 97–152–225(B), dated July 16, 1997.

Issued in Renton, Washington, on February 2, 1998.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–3128 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 167

[USCG–98–3385]

Port Access Routes; Prince William Sound via Cape Hinchinbrook Entrance and Passages Within the Sound Between Port Valdez and Cape Hinchinbrook

AGENCY: Coast Guard, DOT.

ACTION: Notice of Port Access Route study; request for comments.

SUMMARY: The Coast Guard is conducting a port access route study to evaluate the need for modifications to current vessel routing and traffic management measures in the approaches to and departures from Prince William Sound and within Prince William Sound. This study is being conducted because of comments received from commercial vessels which operate in the area and the results of the Prince William Sound Risk Assessment. This port access route study will determine what, if any, changes to the existing traffic separation scheme (TSS) in the approaches to Prince William

Sound are needed. As a result of this study, a new or modified TSS and/or precautionary areas, or other vessel operating requirements may be proposed in the **Federal Register**.

DATES: Comments must be received on or before May 11, 1998.

ADDRESSES: You may mail comments to the Docket Management Facility, (USCG 98–3385), U.S. Department of Transportation (DOT), 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address between 10 a.m. and 5 pm., Monday through Friday, except holidays. Comments may also be hand delivered to this address.

The Docket Management Facility maintains the public docket for this notice. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza Level of the Nassif Building at the above address between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also electronically access the public docket for this notice on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, contact Carol Kelley, Coast Guard Dockets team Leader or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329; for information concerning the notice of study, contact Commander K. Hamblett, Seventeenth Coast Guard District (907) 463–2264, Commander R. Morris, Project Officer, Captain of the Port, Valdez (907) 835–7210, Lieutenant C. Holmes, VTS Valdez (907) 835–7209, or Ms. M. Hegy, Project Manager, U.S. Coast Guard Headquarters, Waterways Management Staff (G–M–2), (202) 267–0415.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this study by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this notice (USCG–98–3385) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit one copy of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the DOT Docket Management Facility at the address under **ADDRESSES**. If you want acknowledgment of receipt of your comment, enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period. The comments will be considered in the study and in developing any regulatory proposals.

The Coast Guard intends to hold at least one public meeting to listen to the commercial and recreational users of the waters in the study area. Our goal is to reduce the risk of collisions and groundings both within Prince William Sound and outside Cape Hinchinbrook. Details of the meeting will be announced in a separate notice in the **Federal Register** as well as locally.

The Coast Guard's Marine Safety Office, Valdez, AK, in consultation with the Seventeenth Coast Guard District Juneau, AK, will conduct the study and develop recommendations. Commander R.J. Morris, Captain of the Port, Valdez, AK (907) 835–7209 is the project officer responsible for the study.

Background and Purpose

The 1978 amendments to the Ports and Waterways Safety Act (PWSA), 33 U.S.C. 1223(c), require that a port access route study be conducted prior to establishing or adjusting fairways or TSS's. The Coast Guard is undertaking a port access route study to determine the effect of amending the TSS on vessel traffic safety in the study area.

The approaches to/and areas within Prince William Sound were last studied in 1981, and the results were published on December 14, 1981 (46 FR61049). The current TSS stems from that study.

This study continues the effort to evaluate navigation risk in the study area. On December 15, 1996, the Prince William Sound Risk Assessment was completed. An addendum to the study found that removal of the southern dogleg in the existing TSS would result in a minor overall reduction in risk, due to less transit time required by participating vessels. In addition, improved traffic management will be realized.

Definitions

The following definitions are provided to assist reviewers and commenters in reviewing docket materials and making recommendations.

An internationally recognized vessel routing system is one or more routes or routing measures aimed at reducing the risk of casualties. A system may include TSS's, two-way routes, recommended tracks, areas to be avoided, inshore traffic zones, roundabouts, precautionary areas, and deep-water routes.

A TSS is a routing measure that minimizes the risk of collision by separating vessels into opposing streams of traffic through the establishment of traffic lanes.

A two-way route is a route within defined limits inside which two-way traffic is established, aimed at providing safe passage of ships through waters where navigation is difficult or dangerous.

A recommended track is a route which has been specially examined to ensure so far as possible that it is free of dangers and along which ships are advised to navigate.

An area to be avoided is a routing measure comprising an area within defined limits in which either navigation is particularly hazardous or it is exceptionally important to avoid casualties and should be avoided by all ships, or certain classes of ships.

An inshore traffic zone comprises a designated area between the landward boundary of a TSS and the adjacent coast and is used in accordance with rule 10(d) of the 72 COLREGS.

A roundabout is a routing measure compromising a separation point or circular separation zone and a circular traffic lane within defined limits. Traffic moves in a counterclockwise direction around the separation point or zone in a roundabout.

A precautionary area is a defined area where ships must navigate with particular caution and within which the direction of traffic flow may be recommended.

A deep-water route is a route within defined limits, which has been accurately surveyed for clearance of sea bottom and submerged obstacles as indicated on nautical charts.

Study Area

The study area is defined as navigable waters of the U.S., north of a line drawn from Cape Hinchinbrook Light to Schooner Rock Light, comprising that portion of Prince William Sound between 146–30′W, 147–20′W and includes Valdez Arm, Valdez Narrows, and Port Valdez. The offshore area is bounded by a line connecting the following geographic positions:

Latitude	*Longitude*
60°03′N	147°20′W
59°40′N	147°20′W
59°40′N	146°00′W
60°23′N	146°00′W

The study area includes a Traffic Separation Scheme (TSS), shipping safety fairway and a regulated navigation area (RNA).

Issues

The goal of this study is to reduce maritime risk within Prince William Sound while allowing for increased efficiency of traffic management. The study may result in a finding that no changes are needed, or if warranted, one of the following or some other change: (1) Modify the TSS to allow vessels less restrictive access to the center of the channel (ie. reduce or eliminate the separation zone; (2) establish a precautionary area at the Pilot Station abeam of Bligh Reef; (3) remove the southern dogleg to provide a straight traffic lane between the Pilot Station and Cape Hinchinbrook; (4) establish a TSS in place of the safety fairway from Cape Hinchinbrook; or (5) establish a precautionary area and traffic lane in the vicinity of Cape Hinchinbrook.

Procedural Requirements

In order to provide safe access routes for movement of vessel traffic proceeding to and from U.S. ports, the PWSA directs that the Secretary designate necessary fairways and TSS's in which the paramount right of navigation over all other uses shall be recognized. Before a designation can be made, the Coast Guard is required to undertake a study of potential traffic density and the need for safe access routes.

During the study, the Coast Guard is directed to consult with federal and state agencies and to consider the views of representatives of the maritime community, port and harbor authorities or association, environmental groups, and other parties who may be affected by the proposed action.

In accordance with 33 U.S.C. 1223(c), the Coast Guard will, to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved. The Coast Guard will also consider previous studies and experience in the areas of vessel traffic management, navigation, shiphandling, the affects of weather, and prior analysis of the traffic density in certain regions.

The results of this study will be published in the **Federal Register**. If the Coast Guard determines that new routing measures or other regulatory action is needed, a notice of proposed rulemaking will be published. It is anticipated that the study will be completed by early Fall.

Dated: February 2, 1998.

R.C. North,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 98–3188 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CT7–1–5298b; A–1–FRL–5949–5]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Reasonably Available Control Technology for Volatile Organic Compounds at Sikorsky Aircraft Corporation in Stratford

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of Connecticut. This revision establishes and requires reasonably available control technology (RACT) for volatile organic compound (VOC) emissions which are not subject to control technology guideline-based regulations (i.e., non-CTG VOC emission sources) at Sikorsky Aircraft Corporation in Stratford, Connecticut. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Comments must be received on or before March 11, 1998.

ADDRESSES: Comments may be mailed to Susan Studlien, Deputy Director, Office of Ecosystem Protection (mail code CAA), U.S. Environmental Protection Agency, Region I, JFK Federal Bldg., Boston, MA 02203. Copies of the State submittal and EPA's technical support document are available for public inspection during normal business hours, by appointment at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, Region I, One Congress Street, 11th floor, Boston, MA and, the Bureau of Air Management, Department of Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Steven A. Rapp, Environmental Engineer, Air Quality Planning Unit (CAQ), U.S. EPA, Region I, JFK Federal Building, Boston, MA 02203–2211; (617) 565–2773; or by E-mail at: Rapp.Steve@EPAMAIL.EPA.GOV.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final rule which is located in the Rules section of this **Federal Register**.

Authority: 42 U.S.C. 7401—7671q.

Dated: December 29, 1997.

John P. DeVillars,

Regional Administrator, Region I.

[FR Doc. 98–3024 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[TX–85–1–7334b; FRL–5956–1]

Approval and Promulgation of State Air Quality Plans, Texas; Alternate Reasonably Available Control Technology Demonstration for Raytheon TI Systems, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a site-specific revision to the Texas State Implementation Plan for Raytheon TI Sysytems, Incorporated (RTIS) of Dallas. This revision was submitted by the Governor on January 9, 1997, to establish an alternate reasonably available control technology demonstration to control volatile organic compounds for the surface coating processes at the RTIS Lemmon Avenue facility. Please see the direct final rule of this action located elsewhere in today's **Federal Register** for a detailed discussion of this rulemaking.

DATES: Comments on this proposed rule must be postmarked by March 11, 1998.

ADDRESSES: Comments should be mailed to Thomas H. Diggs, Chief, Air Planning Section (6PD–L), EPA Region

6, 1445 Ross Avenue, Dallas, Texas 75202–2733. Copies of the State's plan and other information relevant to this action are available for inspection during normal hours at the following locations:

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, suite 700, Dallas, Texas 75202–2733.

Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, Office of Air Quality, 12124 Park 35 Circle, Austin, TX 78753.

Anyone wishing to review this plan at the Region 6 EPA office is asked to contact the person below to schedule an appointment 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Lt. Mick Cote, Air Planning Section (6PD–L), EPA Region 6, telephone (214) 665–7219.

SUPPLEMENTRY INFORMATION: See the information provided in the Direct Final rule which is located in the Rules Section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

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

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

Dated: January 9, 1998.

Lynda F. Carroll,

Acting Regional Administrator.

[FR Doc. 98–3179 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[AZ 059–0010; FRL–5965–3]

Approval and Promulgation of Implementation Plans; Arizona State Implementation Plan, Maricopa County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the Arizona State Implementation Plan (SIP) which concern the control of particulate matter (PM) from residential wood combustion.

The intended effect of proposing limited approval and limited disapproval of these rules is to regulate PM emissions 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 these rules into the federally approved SIP. EPA has evaluated the rules and is proposing a simultaneous limited approval and limited disapproval under provisions of the CAA regarding EPA action on SIP submittals and general rulemaking authority because these revisions, while strengthening the SIP, also do not fully meet the CAA provisions regarding plan submissions and requirements for nonattainment areas.

DATES: Comments must be received on or before March 11, 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 rules and EPA's evaluation report of the rules are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Arizona Department of Environmental Quality, Air Quality Division, 3033 North Central Avenue, Phoenix, AZ 85012

Maricopa County Environmental Services Division, Air Quality Division, 1001 North Central Avenue #201, Phoenix, AZ 85004

FOR FURTHER INFORMATION CONTACT: Patricia A. Bowlin, Rulemaking Office, AIR–4, Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901 Telephone: (415) 744–1188.

SUPPLEMENTARY INFORMATION:

I. Applicability

The rules being proposed for approval into the Arizona SIP are Maricopa County (Maricopa) Rule 318, Approval of Residential Woodburning Devices, and the Maricopa Residential Woodburning Restriction Ordinance. These rules were submitted by the Arizona Department of Environmental Quality (ADEQ) to EPA on August 31, 1995.

II. Background

On March 3, 1978, EPA promulgated a list of total suspended particulate (TSP) nonattainment areas under the provisions of the 1977 Clean Air Act (1977 CAA or pre-amended Act), that included the Maricopa Association of Governments (MAG) Urban Planning Area (43 FR 8964; 40 CFR 81.303). On July 1, 1987 (52 FR 24672) EPA replaced the TSP standards with new PM standards applying only to PM up to 10 microns in diameter (PM–10).[1] On November 15, 1990, amendments to the 1977 CAA were enacted. Public Law 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q. On the date of enactment of the 1990 CAA Amendments, PM–10 areas meeting the qualifications of section 107(d)(4)(B) of the Act were designated non-attainment by operation of law and classified as moderate pursuant to section 188(a). The Phoenix Planning Area was among the areas designated non-attainment.[2] In section 189(a) of the CAA, Congress statutorily adopted the requirement that moderate PM–10 nonattainment areas adopt reasonably available control measures (RACM) rules for PM–10 and established a deadline of November 15, 1991 for states to submit these rules.

In response to section 110(a) and Part D of the Act, the State of Arizona submitted many PM–10 rules to EPA for incorporation into the Arizona SIP on August 31, 1995, including the rules being acted on in this document. This document addresses EPA's proposed action for Maricopa Rule 318, Approval of Residential Woodburning Devices, and the Maricopa Residential Woodburning Restriction Ordinance (Woodburning Ordinance). Maricopa adopted Rule 318 and the Woodburning Ordinance on October 5, 1994. Maricopa Rule 318 and the Woodburning Ordinance were found to be complete on March 12, 1996 pursuant to EPA's completeness criteria that are set forth in 40 CFR Part 51 Appendix V[3] and are being proposed for limited approval and limited disapproval.

Rule 318 and the Woodburning Ordinance control PM emissions from residential wood combustion. PM emissions can harm human health and the environment. The rules that are the subject of this action were adopted as part of Maricopa's efforts to achieve the National Ambient Air Quality Standard

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[1] On July 18, 1997 EPA promulgated revised and new standards for PM–10 and PM–2.5 (62 FR 38651). EPA has not yet established specific plan and control requirements for the revised and new standards. This action is part of Maricopa's efforts to achieve compliance with the 1987 PM–10 standards and the section 189(a) requirement.

[2] On June 10, 1996 EPA reclassified Phoenix Planning Area from moderate to serious nonattainment pursuant to section 188(b)(2). See 61 FR 21372 (May 10, 1996). Section 189(b) requires serious non-attainment areas to adopt Best Available Control Measures (BACM) rules and to submit these rules within 18 months of reclassification.

[3] 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).

(NAAQS) for PM–10 and in response to the section 189(a) CAA requirement. The following is EPA's evaluation and proposed action for Maricopa Rule 318 and the Woodburning Ordinance.

III. EPA Evaluation and Proposed Action

In determining the approvability of a PM–10 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). EPA must also ensure that rules are enforceable and strengthen or maintain the SIP's control strategy.

The statutory provisions relating to RACM are discussed in EPA's "General Preamble", which give the Agency's preliminary views on how EPA intends to act on SIPs submitted under Title I of the CAA. See 57 FR 13498 (April 16, 1992) and 57 FR 18070 (April 28, 1992). In this proposed rulemaking action, EPA is applying these policies to this submittal, taking into consideration the specific factual issues presented.

For the purpose of assisting state and local agencies in developing RACM rules, EPA prepared a series of technical guidance documents on PM–10 source categories (See CAA section 190). The RACM guidance applicable to this rule is entitled, "Guidance Document for Residential Wood Combustion Emission Control Measures" (EPA–450/2–89–015, September 1989).

Maricopa Rule 318 and the Woodburning Ordinance are new rules for inclusion in the SIP. The submitted rules control PM–10 emissions from residential wood combustion by establishing a mandatory woodburning curtailment program. Rule 318 establishes standards for the approval of woodburning devices, and the Woodburning Ordinance prohibits the use of non-approved devices during high air pollution episodes. EPA has determined that Maricopa Rule 318 and the Woodburning Ordinance meet the criteria for RACM according to the applicable RACM guidance.

Although Maricopa Rule 318 and the Woodburning Ordinance will strengthen the SIP, the rules contain the following deficiencies: Director's discretion and non-EPA-approved testing protocols. A detailed discussion of rule deficiencies can be found in the Technical Support Document for Rule 318 and the Woodburning Ordinance, which is available from the U.S. EPA's Region IX office. These deficiencies may lead to rule enforceability problems and are, therefore, not consistent with section 172(c)(6) of the 1977 CAA.

Because of the above deficiencies, EPA cannot grant full approval of these rules under section 110(k)(3) and part D. Also, because the submitted rules are not composed of separable parts that meet all the applicable requirements of the CAA, EPA cannot grant partial approval of the rules under section 110(k)(3). However, EPA may grant a limited approval of the submitted rules under section 110(k)(3) in light of EPA's authority pursuant to section 301(a) to adopt regulations necessary to further air quality by strengthening the SIP. The approval is limited because EPA's action also contains a simultaneous limited disapproval. In order to strengthen the SIP, EPA is proposing a limited approval of Maricopa's submitted Rule 318 and the Woodburning Ordinance under sections 110(k)(3) and 301(a) of the CAA.

At the same time, EPA is also proposing a limited disapproval of these rules because they contain deficiencies, and, as such, the rules do not fully meet the requirements of part D of the Act. Under section 179(a)(2), if the Administrator disapproves a submission under section 110(k) for an area designated nonattainment, based on the submission's failure to meet one or more of the elements required by the Act, the Administrator must apply one of the sanctions set forth in section 179(b) unless the deficiency has been corrected within 18 months of such disapproval. Section 179(b) provides two sanctions available to the Administrator: Highway funding and offsets. The 18 month period referred to in section 179(a) will begin on the effective date of EPA's final limited disapproval. Moreover, the final disapproval triggers the Federal implementation plan (FIP) requirement under section 110(c). It should be noted that the rules covered by this action have been adopted by Maricopa and are currently in effect in Maricopa. EPA's final limited disapproval action will not prevent Maricopa or EPA from enforcing these rules.

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.

IV. 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.

SIP approvals under sections 110 and 301, 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, 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 Clean Air Act forbids EPA to base its action 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 ("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 approval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the

private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

List of Subjects in 40 CFR Part 52

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

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

Dated: February 4, 1998.

Felicia Marcus,

Regional Administrator, Region IX.

[FR Doc. 98–3325 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5963–4]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent for Partial Deletion of the Celanese Corporation (Hoechst Celanese) Shelby Fiber Operations Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region 4 announces its intent to delete portions of the Celanese Corporation Shelby Fiber Operations Superfund Site located in Shelby (Cleveland County), North Carolina, from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B to 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This partial deletion of the Celanese Corporation Shelby Fiber Operations site is proposed in accordance with 40 CFR 300.425(e) and the Notice of Policy Change: Partial Deletion of Sites Listed on the NPL, published in the **Federal Register** on November 1, 1995 at (60 FR 55466).

This proposal for partial deletion pertains only to portions of Operable Unit (OU) 1—Outer Tier Extraction Well System, and Operable Unit (OU) 2—Former Source Area and Remediated Creeks. EPA bases its proposal to delete portions of OU–1 and OU–2 on the determination by EPA and the State of North Carolina Department of Environment, Health and Natural Resources (DEHNR) that all appropriate actions under CERCLA have been implemented to protect health, welfare, and the environment.

This partial deletion of OU–1 pertains only to the Outer Tier extraction well system and associated ground-water treatment system. This partial deletion does not include the remaining portions of OU–1 (i.e., the Inner Tier extraction and treatment system). The ground-water unit will remain on the NPL and treatment will continue until a determination by EPA and DEHNR, that all appropriate actions under CERCLA have been completed to protect human health, welfare and the environment relating to residual ground-water contamination at the site.

DATES: EPA will accept comments concerning its proposal for partial deletion for thirty days (30) after publication of this document in the **Federal Register** and a newspaper of record.

ADDRESSES: Comments may be mailed to: Mr. McKenzie Mallary, Remedial Project Manager, U.S. Environmental Protection Agency, Region 4, North Site Management Branch, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3014.

Comprehensive information on this Site is available through the EPA Region 4 public docket, which is located at EPA's Region 4 office and is available for viewing by appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region 4 docket office.

The address for the regional docket office is Ms. Debbie Jourdan, U. S. Environmental Protection Agency, Federal Atlanta Center, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3014. The telephone number is (404) 562–8862.

Background information from the regional public docket is also available for viewing at the Site information repository located at the Cleveland County Library, 104 Howie Drive, Shelby, NC 28151. The telephone number is (704) 487–9069. The library is open Monday through Thursday from 9:00 a.m. to 9:00 p.m., on Friday from 9:00 a.m. until 5:00 p.m, and Saturday from 9:00 a.m. until 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. McKenzie Mallary, Remedial Project Manager, U. S. Environmental Protection Agency, Region 4, North Site Management Branch, 61 Forsyth Street, S.W., Atlanta, Georgia 30303–3014 (404) 562–8802; 1–800–435–9233.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The United States Environmental Protection Agency (EPA) Region 4 announces its intent to delete a portion of the Celanese Corporation Shelby Fiber Operations site (Site) from the NPL, Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300. It also serves to request public comments on the deletion proposal. EPA will accept comments on this proposed action for deletion for thirty days after publication of this document in the **Federal Register.**

EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in § 300.425 (e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

This proposal for partial deletion pertains only to OU–1 (Outer Tier), and OU–2 (Former Source Area and Remediated Creeks). Response activities to remediate residual groundwater contamination at the OU–1(Inner Tier) of this Site are not yet complete and this part of OU–1 will remain on the NPL and is not subject of this partial deletion.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with § 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following criteria for site deletion:

(i) Responsible or other parties have implemented all appropriate response actions required;

(ii) All appropriate response actions under CERCLA have been implemented

and no further response actions are deemed necessary; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

III. Deletion Procedure

EPA Region 4 will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of portions of the Celanese Corporation Shelby Fiber Operations Site:

(1) EPA Region IV has recommended deletion and has prepared the relevant documents.

(2) The State has concurred with the decision to delete portions of the Celanese Corporation Shelby Fiber Operations site.

(3) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete.

(4) EPA has made all relevant documents available for public review at the information repository and in the Regional Office.

Partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, § 300.425(e)(30) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions.

For the partial deletion of this Site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before finalizing the decision. The Agency will prepare a Responsiveness Summary to address any significant public comments received during the comment period. The deletion is finalized after the Regional Administrator places a Notice of Deletion in the **Federal Register**.

IV. Basis for Intended Partial Site Deletion

The following summary provides the Agency's rationale for deletion of OU–1 (Outer Tier) and OU–2 (Former Source Area and Remediated Creeks) of the Celanese Corporation Shelby Fiber Operations site from the NPL and EPA's finding that the criteria in 40 CFR 300.425(e) are satisfied.

A. Site Background

The Hoechst Celanese Shelby, North Carolina Fiber Operations plant is a polyester raw-material production facility. The site consists of a 450-acre piece of property which includes the main plant production area, wastewater treatment area, former waste disposal areas, and recreational areas. The plant is located in south-central Cleveland County, bordered by Highway 198 to the west and Lavender Road to the south, approximately one mile north of Earl and six miles south of Shelby.

Hoechst Celanese has been conducting environmental investigations at the Shelby facility since 1981. Remediation and clean-up activities based on these investigations have been on-going since 1988. Initially, work performed at the facility was conducted on a voluntary basis by Hoechst Celanese. The site was later proposed for listing on the NPL (National Priorities List) in October of 1984, and work conducted since that time has followed the formal RI/FS (remedial investigation/feasibility study) process under CERCLA. The site was formally placed on the NPL in June of 1986.

B. Response Actions Taken at the Celanese Fiber Operations Shelby Site

A Remedial Investigation of the Celanese Fiber Operations Shelby Site was completed in 1987 by Hoechst Celanese, the Potentially Responsible Party. Based on data collected during the Remedial Investigation, a risk assessment was conducted to identify contaminants of concern, potential exposure pathways, and potential human health risks resulting from exposure to contaminants found at the Celanese Fiber Operations Shelby Site. This risk assessment determined that the most significant potential human health risk was exposure to benzene, lead, trichloroethylene and chromium through consumption of ground water by residents living adjacent to the site.

Remedial activities conducted at the site have been broken into two operable units: Operable Unit 1 (OU–1), consisting of groundwater extraction, treatment, and hydraulic control; and, Operable Unit 2 (OU–2), consisting of removal and treatment of contaminated source areas and stream sediments. The site was broken into two operable units because of the time involved in conducting pilot studies for the former source area remediation. The intent in separating the site into two operable units was to begin immediately with groundwater recovery while the pilot studies for OU–2 were being conducted.

The ROD for OU–1 was issued on March 23, 1988. OU–1 construction activities began in October of 1988 and the extraction well system was placed in operation in August of 1989. An initial Five Year Review Report for OU–1 was prepared, and the final report was submitted to the EPA on August 8, 1994. OU–1 consists of two groundwater extraction and treatment systems identified as the Inner Tier and Outer Tier systems. The remedial action objectives for the OU–1 remedy were to control further migration of the contaminated groundwater toward the site perimeter and to remove contaminated ground water for subsequent treatment and discharge.

The OU–2 ROD was issued on March 28, 1989. OU–2 site development activities began in September of 1990 and remediation activities continued through August of 1992. An initial Five Year Review Report for OU–2 has been prepared, and the final report was submitted to the EPA in August of 1995.

The objectives of the OU–2 remediation were to remove, treat, and dispose of the most probable sources of groundwater contamination identified during the remedial investigation and additional site characterization studies. The identified source areas included buried wastes consisting of GRU (glycol recovery unit) sludges, residual burn pit materials, and plastic chips. Although not part of the identified source area, the OU–2 remedy also included the excavation and treatment of a lesser amount of contaminated stream sediments along segments of two adjacent, unnamed creeks.

The OU–2 remedy specified in the ROD did not require "clean closure" (i.e., complete removal of source material and residual contamination). Rather, the easily identified GRU sludges, burn pit residuals and plastic chip were excavated, along with obviously contaminated soils (based on visual observation), to a depth of at least 1 foot below the buried wastes. The specific intent of the OU–2 remedy was to remove and treat the major source of groundwater contamination and thereby enhance the effectiveness of the OU–1 remedy.

C. Areas to be Deleted

Significant clean-up progress has been made in all areas of the site, and deletion of selected parts of the site are intended to recognize the clean-up accomplishments to date and to designate portions of the site that do not warrant further action under the federal Superfund program. In order to convey to the public the successful clean up of portions of the Celanese Fiber

Operations Shelby Site, this petition is being made to delete the following operable units or portions of operable units at Shelby:

(1) Operable Unit 1 Outer Tier Extraction System.

(2) Operable Unit 2 Former Source Area and Remediated Creeks.

The petition to delist the Outer Tier portion of OU–1 is based on the following evaluation of current conditions:

(1) No detectable levels of organic constituents were reported as present in Outer Tier influent samples or in any off-site domestic supply wells during the 1996 sampling events. Based on the groundwater monitoring data, the Inner Tier extraction system is effectively capturing residual groundwater contamination around the former source area. Assuming Outer Tier pumping is discontinued, the improvement in water quality around the former source area should continue and may also be enhanced because the Outer Tier will no longer be "pulling" ground water away from the former source area.

(2) Discontinuing pumping from the Outer Tier will conserve a valuable groundwater resource and will allow the potentiometric surface along the property boundary to recover. Correspondingly, the hydraulic gradients between the Inner and Outer Tier areas will decrease, resulting in substantially longer travel times from the former source area toward the property boundary. The net effect will be to enhance the natural attenuation and bioremediation of any trace concentrations of constituents which may still remain in transit in the system.

(3) The Outer Tier was installed specifically to provide hydraulic control along the property boundary to eliminate a hypothetical exposure scenario postulated in the endangerment portion of the Feasibility Study. As part of a voluntary initiative by Hoechst Celanese during the 2nd half of 1995, all off-site, downgradient residents were provided with county water for potable purposes, domestic supply wells used for potable purposes have been plugged back, and the property owners have executed deed restrictions preventing future well drilling in the affected area. For all properties, the use of groundwater for drinking water purposes is prohibited. A toxicological assessment of current off-site conditions has indicated acceptable levels of risk, and that the Outer Tier extraction wells could safely be shut down.

The decision to request deletion of the OU–2 portion of the Hoechst Celanese Corporation Shelby site is based on the following observations and evaluation conducted during the Five Year Review which was completed in August of 1995:

(1) All work at OU–2 was completed in accordance with the 100% design report and EPA-approved amendments to the design which occurred during implementation.

(2) During the Five Year Review, no unusual or unsuspected operation and maintenance conditions were found, no areas of non-compliance were identified, and a biological assessment concluded that the remediated creeks were rejuvenating. The review concluded that the remedy was and continues to be protective of human health and the environment.

(3) Deleting the former source area is appropriate because all CERCLA response activities have been completed in those areas of OU–2 where soil contamination exceeded the clean-up goals.

The petition for partial deletion of OU–1 pertains only to the Outer Tier extraction well system and associated ground-water treatment system. This partial deletion does not include the remaining portions of OU–1 (i.e. The Inner Tier extraction and treatment system). The ground-water unit will remain on the NPL and treatment will continue until a determination by EPA and DEHNR, that all appropriate actions under CERCLA have been completed to protect human health, welfare and the environment related to residual groundwater contamination at the site.

Groundwater quality will be monitored quarterly to verify that response actions taken will prevent groundwater contaminants from reaching the property boundary at concentrations which exceed the Federal MCLs or North Carolina Groundwater Protection Standards. Should the monitoring indicate any potential problem with, or failure of, the remedy, the Outer Tier wells can be reactivated to once again provide hydraulic control along the property boundary.

A revised groundwater monitoring program was implemented at the Celanese Fiber Operations Shelby Site during the 1st Quarter of 1996. This program was proposed in the 1995 Annual Operating Status Report for Operable Unit 1, and was approved upon review by the EPA and DEHNR. Hoechst Celanese will continue to collect samples in accordance with the current sampling matrix and the approved Sampling & Analysis Plan. Monitoring data and operating status reports for the Inner Tier remediation will continue to be submitted semiannually in accordance with the currently approved reporting schedule.

D. Community Involvement

During the remedial activities at the Site, EPA kept the community informed of site activities primarily through fact sheets, public meetings, and newspaper articles. Public meetings were held by the EPA to present the RI/FS Work Plan (September 24, 1985), the results of the Remedial Investigation (July 21, 1987), the results of the OU–1 Feasibility Study (February 2, 1988), and the OU–2 Feasibility Study (February 16, 1989). Public comments received during the comment period were considered and addressed in the Responsiveness Summaries attached to each respective ROD.

E. Current Status

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "Responsible parties or other persons have implemented all appropriate response actions required." EPA, with concurrence of DEHNR, believes that this criterion for deletion has been met for the OU–1 Outer Tier and for OU–2. Groundwater quality will be monitored quarterly to verify that response actions taken will prevent groundwater contaminants from reaching off-site areas at concentrations which exceed the Federal MCLs or North Carolina Groundwater Protection Standards. Five-year reviews will be conducted by EPA to evaluate trends in ground-water quality until it has been determined that clean-up goals have been met for the groundwater around the former source area and that additional groundwater monitoring is not necessary.

While EPA does not believe that any future response actions at OU–1 Outer Tier or at OU–2 will be needed, if future conditions warrant such action, the proposed deletion areas of the Celanese Fiber Operations Shelby site remain eligible for future Fund-financed response actions. Furthermore, this partial deletion does not alter the status of the OU–1 Inner Tier extraction well system portion of the Site which is not proposed for deletion and will remain on the NPL.

EPA, with concurrence from the State of North Carolina DEHNR, has determined that all appropriate CERCLA response actions have been completed at OU–1 Outer Tier and OU–2 at the Hoechst Celanese Fiber Operations Shelby site and protection of human health and the environment has been achieved in this area. Therefore, EPA makes this proposal to delete OU–2 and only OU–1 Outer Tier of the Hoechst

Celanese Fiber Operations Shelby Superfund site from the NPL.

Dated: January 23, 1998.

A. Stanley Meiburg,

Deputy Regional Administrator, Environmental Protection Agency, Region 4.

[FR Doc. 98–3041 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 020298A]

RIN–0648–AF41

Fisheries of the Northeastern United States; Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Mid-Atlantic Fishery Management Council (Council) has submitted Amendment 10 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) for Secretarial review and is requesting comments from the public. Amendment 10 would provide management measures for the fishery for small ocean quahogs (mahogany quahogs) that occurs off the coast of Maine, north of 43°50' N. latitude.

DATES: Comments must be received on or before April 10, 1998.

ADDRESSES: Send comments to Dr. Andrew Rosenberg, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-3799. Mark the outside of the envelope "Comments on Amendment 10 to the Surf Clam and Ocean Quahog Plan."

Copies of Amendment 10 including the environmental assessment and regulatory impact review are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 S. New Street, Dover, DE 19904-6790.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: Amendment 10 proposes to (1) establish a Maine mahogany quahog management zone north of 43° 50' north latitude (zone), (2) establish a Maine mahogany quahog moratorium permit, (3) establish an initial annual quota of 100,000 Maine bushels (35,150 hectoliters (hL)), (4) establish a Maine Mahogany Quahog Advisory Panel to make management recommendations to the Council, (5) allow for the revision of the annual quota within a range of 17,000 and 100,000 Maine bushels (5,975 and 35,150 hL), (6) require vessels harvesting ocean quahogs from the zone to fish only in areas that have been certified by the State of Maine to be within Interstate Shellfish Sanitation Conference limits for the toxin responsible for paralytic shellfish poisoning (PSP), (7) require vessels fishing under a Maine mahogany quahog permit to land ocean quahogs in Maine, (8) require vessels fishing in the zone under an individual transferrable quota and landing their catch outside of Maine to land at a facility that utilizes safety-based procedures including sampling and analyzing for PSP toxin consistent with those safety-based procedures used by the State of Maine for such purpose and, (9) give the Regional Administrator the authority to suspend the existing vessel notification requirement for vessels possessing a Maine mahogany quahog permit and fishing in the zone, if he determines it is not necessary for enforcement.

The transmit date for Amendment 10 is February 2, 1998. A proposed rule that would implement the amendment may be published in the **Federal Register** within 15 days of the transmit date, following an evaluation by NMFS under the procedures of the Magnuson-Stevens Fisheries Conservation and Management Act. Public comments on the proposed rule must be received by the end of the comment period on Amendment 10, which is April 10, 1998 in order to be considered in the decision concerning approval or disapproval of the amendment.

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

Dated: February 3, 1998.

Gary C. Matlock,

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

[FR Doc. 98–3103 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 26
Monday, February 9, 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

Foreign Agricultural Service

Notce of Request for Extension of Currently Approved Information Collection

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request an extension for a currently approved information collection in support of the Pub. L. 480, Title I program.

DATES: Comments on this notice must be received by April 10, 1998 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Connie B. Delaplane, Director, Pub. L. 480 Operations Division, Export Credits, Foreign Agricultural Service, Room 4549 South Building, Stop 1033, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC 20250–1033. Telephone: (202) 720–3664.

SUPPLEMENTARY INFORMATION:

Title: Request for Vessel Approval, Form CCC–105; and Request for Vessel Approval Form CCC–105 (cotton).

OMB number: 0551–0008.

Expiration Date of Approval: June 30, 1998.

Type of Request: Extension of a currently approved information collection.

Abstract: Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, (Pub. L. 480) authorizes the Commodity Credit Corporation (CCC) to finance the sale and exportation of agricultural commodities on confessional terms. 7 U.S.C. 1701 *et seq.* Shipping agents or embassies submit pertinent shipping information on Form CCC–105 to facilitate approval by CCC of shipping arrangements. This approval is necessary to assure compliance with cargo preference requirements at the lowest cost to CCC. Agents submit this document in order that USDA can generate the CCC–106, a necessary payment document. Ocean carriers then receive payment for ocean freight.

Estimate of Burden: The public reporting burden is 15 minutes per response for suppliers of ocean transportation reporting details of freight transactions.

Respondents: Business or other-for-profit.

Estimated Number of Respondents: 8.

Estimated Total Annual Burden on Respondents: 22.5 hours.

Copies of this information collection can be obtained from Valerie Countiss, the Agency Information Collection coordinator, at (202) 720–6713.

Request for Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the equality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Connie B. Delaplane, Director, P.L. 480 Operations Division, Export Credits, Foreign Agricultural Service, Room 4549 South Building, Stop 1033, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC 20250–1033. Telephone (202) 720–3664.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, DC on January 29, 1998.

Christopher E. Goldthwait,

General Sales Manager, Foreign Agricultural Service and Vice President, Commodity Credit Corporation.

[FR Doc. 98–3089 Filed 2–6–98; 8:45 am]
BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Cancellation of New York's Designation

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA), USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The New York State Department of Agriculture (New York) is designated to provide official inspection services until October 31, 1999, according to the Act. New York asked GIPSA to cancel its designation effective April 1, 1998. Accordingly, GIPSA is announcing that NewYork's designation is being canceled effective April 1, 1998.

DATES: April 1, 1998.

ADDRESSES: USDA, GIPSA, Neil E. Porter, Director, Compliance Division, AG Code 3604, 1400 Independence Avenue S.W., Washington, D.C. 20250–3604.

FOR FURTHER INFORMATION CONTACT: Neil E. Porter, telephone 202–720–8262.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated New York, main office in Albany, New York, to provide official inspection

services under the Act on November 1, 1996.

Section 7(g)(1) of the Act provides that designations of official agencies will end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designation of New York ends on October 31, 1999, according to the Act. However, New York advised GIPSA that they wanted to cancel their designation. GIPSA has determined that there is not a sufficient need for official services to require a replacement agency.

Accordingly, GIPSA is canceling New York's designation effective April 1, 1998. Any firms in New York that require official service after April 1, 1998, should contact GIPSA's Baltimore Field Office at 410–590–2259

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

Dated: January 29, 1998.

Neil E. Porter,

Director, Compliance Division.

[FR Doc. 98–2764 Filed 2–6–98; 8:45 am]

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE

Sunshine Act Meeting

AGENCY: Rural Telephone Bank, USDA.

ACTION: Staff Briefing for the Board of Directors.

TIME AND DATE: 3 p.m., Wednesday, February 18, 1998.

PLACE: Champagne Room, Marriott Marquis Hotel, 265 Peachtree Center Avenue, Atlanta, GA.

STATUS: Open.

MATTERS TO BE DISCUSSED: General discussion involving the 1996 Telecom Act and universal service; the proposed budget for FY 1999; and administrative issues.

ACTION: Board of Directors Meeting.

TIME AND DATE: 10 a.m., Thursday, February 19, 1998.

PLACE: Consulate Room, Marriott Marquis Hotel, 265 Peachtree Center Avenue, Atlanta, GA.

STATUS: Open.

MATTERS TO BE CONSIDERED: The following matters have been placed on the agenda for the Board of Directors meeting:

1. Call to order.
2. Swearing in new Board members representing the USDA.
3. Action on the November 6, 1997, Minutes.
4. Report on loans approved in first quarter FY 1998.
5. Summary of financial activity for first quarter FY 1998.
6. Consideration of resolution to approve the persons who shall serve as Deputy Governor and Assistant Treasurer.
7. Establish date and location of next regular Board meeting.
8. Adjournment.

CONTACT PERSON FOR MORE INFORMATION: Ken B. Chandler, Acting Assistant Governor, Rural Telephone Bank, (202) 720–9554.

Dated: January 4, 1998.

Wally Beyer,

Governor, Rural Telephone Bank.

[FR Doc. 98–3266 Filed 2–5–98; 10:34 am]

BILLING CODE 3410–15–P

ASSASSINATION RECORDS REVIEW BOARD

Sunshine Act Meeting

DATE: February 17, 1998.

PLACE: ARRB, 600 E Street, NW, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Review and Accept Minutes of Closed Meeting
2. Review of Assassination Records
3. Other Business

CONTACT PERSON FOR MORE INFORMATION: Eileen Sullivan, Press Officer, 600 E Street, NW, Second Floor, Washington, DC 20530. Telephone: (202) 724–0088; Fax: (202) 724–0457.

T. Jeremy Gunn.

Executive Director.

[FR Doc. 98–3268 Filed 2–5–98; 11:01 am]

BILLING CODE 6118–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–801, A–428–801, A–475–801, A–588–804, A–485–801, A–559–801, A–401–801, A–412–801]

Antifriction Bearings (Other Than Tapered Roller Bearings) And Parts Thereof From France, Germany, Italy, Japan, Romania, Singapore, Sweden, and The United Kingdom

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative reviews and partial termination of administrative reviews.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting administrative reviews of the antidumping duty orders on antifriction bearings (other than tapered roller bearings) and parts thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom. The classes or kinds of merchandise covered by these orders are ball bearings and parts thereof, cylindrical roller bearings and parts thereof, and spherical plain bearings and parts thereof. The reviews cover 20 manufacturers/exporters. The period of review is May 1, 1996, through April 30, 1997.

We are terminating the reviews for six other manufacturers/exporters and for certain types of antifriction bearings from still other manufacturers/exporters because the requests for reviews of these firms or types of bearings were withdrawn in a timely manner.

We have preliminarily determined that sales have been made below normal value by various companies subject to these reviews. If these preliminary results are adopted in our final results of these administrative reviews, we will instruct U.S. Customs to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in these proceedings are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION: The appropriate case analysts for the various respondent firms are listed below, at Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–4733.

France
Chip Hayes (SKF), Lisa Tomlinson (SNFA), or Richard Rimlinger.

Germany
John Heires (Torrington Nadellager), Davina Hashmi (SKF), or Robin Gray.

Italy
Chip Hayes (SKF), Mark Ross (FAG), Kristie Strecker (Somecat), William Zapf (Meter), Robin Gray, or Richard Rimlinger.

Japan
J. David Dirstine (Koyo Seiko), Gregory Thompson (NTN), Hermes Pinilla (NPBS), Thomas Schauer (NSK Ltd.), Jay Biggs (Nachi-Fujikoshi Corp.), Robin Gray, or Richard Rimlinger.

Romania
Kristie Strecker (Tehnoimportexport, S.A.) or Robin Gray.

Singapore

Lyn Johnson (NMB/Pelmec) or Richard Rimlinger.
Sweden
Mark Ross (SKF) or Richard Rimlinger.
United Kingdom
Suzanne Flood (Barden Corporation), Diane Krawczun (NSK/RHP), Hermes Pinilla (FAG), Lyn Johnson (SNFA), Robin Gray, or Richard Rimlinger.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR Part 353 (April 1, 1996).

Background

On May 15, 1989, the Department of Commerce (the Department) published in the **Federal Register** (54 FR 20909) the antidumping duty orders on ball bearings and parts thereof (BBs), cylindrical roller bearings and parts thereof (CRBs), and spherical plain bearings and parts thereof (SPBs) from France, Germany, Italy, Japan, Romania, Singapore, Sweden, and the United Kingdom. Specifically, these orders cover BBs, CRBs, and SPBs from France, Germany, and Japan; BBs and CRBs from Italy, Sweden, and the United Kingdom; and BBs from Romania and Singapore. On June 17, 1997 and August 28, 1997, in accordance with 19 CFR 353.22(c), we published notices of initiation of administrative reviews of these orders for the period May 1, 1996 through April 30, 1997 (the POR) (62 FR 32754 (as corrected by 62 FR 34504 and 62 FR 44751) and 62 FR 45621, respectively). The Department is conducting these administrative reviews in accordance with section 751 of the Act.

Subsequent to the initiation of these reviews, we received timely withdrawals of review requests for Bruckner (Germany), FAG Kugelfisher Georg Schaefer AG (Germany), INA Walzlager Schaeffler KG (Germany), NTN Kugellagerfabrik (Deutschland) GmbH (Germany), SNR Roulements (France), and C.R. s.r.l. (Italy). In addition, we also received timely withdrawals of review requests for CRBs sold by FAG Italia S.p.A. (Italy), CRBs sold by Somecat S.p.A. (Italy), CRBs sold by SNFA Bearings Ltd. (U.K.), and CRBs and SPBs sold by Koyo Seiko Co., Ltd. (Japan). Because there were no other requests for review of these companies or specified bearing types for the above-named firms, we are terminating the reviews with respect to these companies or types of bearings in accordance with 19 CFR 353.22(a)(5). Furthermore, on December 17, 1997, we received a withdrawal of a request by Agusta Aerospace Corporation (AAC) to review BBs and CRBs which were produced by SNFA France and exported by Agusta S.p.A. to the United States. This withdrawal request does not affect our review of other BBs and CRBs sold by SNFA France. Therefore, because SNFA France had no specific foreknowledge that sales it made to Agusta S.p.A. were destined for the United States, we will instruct the Customs Service to liquidate entries of all SNFA bearings imported by AAC at the rate required at the time of entry.

Although we received a request to revoke the antidumping duty order covering BBs from Singapore with respect to NMB Singapore Ltd./Pelmec Industries (Pte.) Ltd. (NMB/Pelmec), we have preliminarily determined that NMB/Pelmec does not qualify for revocation under 19 CFR 353.25(a)(1) because we preliminarily determine that the firm was dumping BBs in this review period and we determined that NMB/Pelmec dumped BBs in the review periods May 1, 1994 through April 30, 1995 (62 FR 54043, October 17, 1997) and May 1, 1995 through April 30, 1996 (62 FR 2081, January 15, 1997).

Scope of Reviews

The products covered by these reviews are antifriction bearings (other than tapered roller bearings) and parts thereof (AFBs) and constitute the following classes or kinds of merchandise:

1. *Ball Bearings and Parts Thereof:* These products include all AFBs that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following Harmonized Tariff Schedules (HTS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6560, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

2. *Cylindrical Roller Bearings and Parts Thereof:* These products include all AFBs that employ cylindrical rollers as the rolling element. Imports of these products are classified under the following categories: antifriction rollers, all cylindrical roller bearings (including split cylindrical roller bearings) and parts thereof, and housed or mounted cylindrical roller bearing units and parts thereof.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.40.00, 8482.50.00, 8482.80.00, 8482.91.00, 8482.99.25, 8482.99.35, 8482.99.6530, 8482.99.6560, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.93.5000, 8708.99.4000, 8708.99.4960, 8708.99.50, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

3. *Spherical Plain Bearings and Parts Thereof:* These products include all spherical plain bearings that employ a spherically shaped sliding element.

Imports of these products are classified under the following HTS subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.50.10, 8483.30.80, 8483.90.30, 8485.90.00, 8708.93.5000, 8708.99.50, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

The size or precision grade of a bearing does not influence whether the bearing is covered by the order. For a further discussion of the scope of the orders being reviewed, including recent scope determinations, see Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews, 62 FR 54043 (October 17, 1997) (AFBs VII). The HTS item numbers are provided for convenience and customs purposes. The written descriptions of the scope of these proceedings remain dispositive.

These reviews cover the following firms and classes or kinds of merchandise:

Name of firm	Class or kind
France	
SKF France (including all relevant affiliates)	BBs, SPBs
SNFA S.A. (SNFA France)	BBs, CRBs
Germany	
SKF GmbH (including all relevant affiliates) (SKF Germany)	All
Torrington Nadellager (Torrington/Kuensenbeck)	BBs, CRBs
Italy	
FAG Italia, S.p.A. (including all relevant affiliates) (FAG Italy)	BBs
SKF-Industrie, S.p.A. (including all relevant affiliates) (SKF Italy)	BBs
Meter, S.p.A. (Meter)	CRBs
Somecat, S.p.A. (Somecat)	BBs
Japan	
Koyo Seiko Co., Ltd. (Koyo)	BBs
Nachi-Fujikoshi Corp. (Nachi)	BBs, CRBs
Nippon Pillow Block Sales Company, Ltd. (NPBS)	BBs, CRBs
NSK Ltd. (formerly Nippon Seiko K.K.)	BBs, CRBs
NTN Corp. (NTN Japan)	All
Romania	
Tehnoimportexport, S.A. (TIE)	BBs
Singapore	
NMB/Pelmec	BBs
Sweden	
SKF Sverige (including all relevant affiliates) (SKF Sweden)	BBs, CRBs
United Kingdom	
Barden Corporation	BBs, CRBs
FAG (U.K.) Ltd.	BBs, CRBs
NSK Bearings Europe, Ltd./RHP Bearings Ltd. (NSK/RHP)	BBs, CRBs
SNFA (U.K.) Bearings Ltd.	BBs

In a letter dated June 24, 1997, Torrington requested to be excused from responding to the Department's questionnaire in this review involving BBs from Germany. Torrington stated that, during the POR, it imported into the United States only ten units covered by the order on BBs and all units were imported and obtained by Torrington-U.S. from Torrington-Germany via an affiliated-party transaction solely for testing and/or examination.

On August 4, 1997, Torrington notified the Department that it had destroyed all ten units in question and that there is no possibility of resale. Based on this, Torrington states that no useful purpose would be served by requiring it to answer the questionnaire so far as BBs are concerned. Given that the units in question were destroyed and there are no sales to review, we have not calculated dumping margins for these entries in this review involving BBs from Germany. See memorandum to Laurie Parkhill from Suzanne Flood, dated August 18, 1997. Because this merchandise was consumed by the affiliated importer and not resold in any form, we will liquidate these entries without regard to antidumping duties. (See, e.g., Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.: Preliminary Results of Antidumping Duty Administrative Reviews, Termination of Administrative Reviews, and Partial Termination of Administrative Reviews, 61 FR 35713 (July 8, 1996).)

Verification

As provided in section 782(i) of the Act, we verified information provided by certain respondents using standard verification procedures, including on-site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Use of Facts Available

We preliminarily determine, in accordance with section 776(a) of the Act, that the use of facts available as the basis for the weighted-average dumping margin is not appropriate for any of the companies under the current review. However, in certain situations, we found it necessary to use partial facts available. Partial facts available was applied in cases where we were unable to use some portion of a response in calculating the dumping margin. For partial facts available, we extrapolated information from the company's response and used that information in our calculations. For SKF (Germany), NPBS, NTN, Torrington, and NSK–RHP (UK), average credit days were calculated for missing payment dates. For TIE (Romania), we had no factor value on the record to value steel tube. Therefore, we used the value of steel bar

as the factor value for this input. For Torrington, we used facts available to construct the value of merchandise where no comparable home market information existed. For further information, please see the analysis memoranda on file for all of these firms.

Export Price and Constructed Export Price—Market-Economy Countries

For the price to the United States, we used export price (EP) or constructed export price (CEP) as defined in sections 772(a) and 772(b) of the Act, as appropriate. Due to the extremely large volume of transactions that occurred during the POR and the resulting administrative burden involved in calculating individual margins for all of these transactions, we sampled CEP sales in accordance with section 777A of the Act. When a firm made more than 2,000 CEP sales transactions to the United States for a particular class or kind of merchandise, we reviewed CEP sales that occurred during sample weeks. We selected one week from each two-month period in the review period, for a total of six weeks, and analyzed each transaction made in those six weeks. The sample weeks were June 2–8, 1996; August 11–17, 1996; October 13–19, 1996; November 3–9, 1996; February 2–8, 1997; and April 13–19, 1997. We reviewed all EP sales transactions during the POR.

We calculated EP and CEP based on the packed f.o.b., c.i.f., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions, as appropriate, for discounts and rebates. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the Statement of Administrative Action (SAA) (at 823–824) to the URAA, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, including commissions, direct selling expenses, indirect selling expenses, and repacking expenses in the United States. Where appropriate, in accordance with section 772(d)(2) of the Act, we also deducted the cost of any further manufacture or assembly, except where the special rule provided in section 772(e) of the Act was applied (see below). Finally, we made an adjustment for profit allocated to these expenses in accordance with section 772(d)(3) of the Act.

With respect to subject merchandise to which value was added in the United States prior to sale to unaffiliated U.S. customers, *i.e.*, parts of bearings that were imported by U.S. affiliates of foreign exporters and then further processed into other products which were then sold to unaffiliated parties, we determined that the special rule for merchandise with value added after importation under section 772(e) of the Act applied to all firms that added value in the United States, with the exception of NSK/RHP and NPBS.

Section 772(e) of the Act provides that, where the subject merchandise is imported by an affiliated person and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, we shall determine the CEP for such merchandise using the price of identical or other subject merchandise if there is a sufficient quantity of sales to provide a reasonable basis for comparison and we determine that the use of such sales is appropriate. If there is not a sufficient quantity of such sales or if we determine that using the price of identical or other subject merchandise is not appropriate, we may use any other reasonable basis to determine the CEP.

To determine whether the value added is likely to exceed substantially the value of the subject merchandise, we estimated the value added based on the difference between the averages of the prices charged to the first unaffiliated purchaser for the merchandise as sold in the United States and the averages of the prices paid for the subject merchandise by the affiliated person. Based on this analysis, we determined that the estimated value added in the United States by all firms, with the exception of NSK/RHP and NPBS, accounted for at least 65 percent of the price charged to the first unaffiliated customer for the merchandise as sold in the United States. (See 19 CFR 351.402 for an explanation of our practice on this issue.) Therefore, we determined that the value added is likely to exceed substantially the value of the subject merchandise. Also, for the companies in question, we determined that there was a sufficient quantity of sales remaining to provide a reasonable basis for comparison and that the use of such sales is appropriate. Accordingly, for purposes of determining dumping margins for these sales, we have used the weighted-average dumping margins calculated on sales of identical or other subject merchandise sold to unaffiliated persons. No other adjustments to EP or CEP were claimed or allowed.

Normal Value—Market-Economy Countries

Based on a comparison of the aggregate quantity of home market and U.S. sales, and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by most respondents in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States pursuant to section 773(a) of the Act. With the exception of Meter, each company's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value (NV) on the prices at which the foreign like products were first sold for consumption in the exporting country.

For Meter, we used third-country sales to Germany to establish NV because Meter had no sales of the foreign like product in Italy. SNFA France's home market was viable in accordance with section 773(a)(1) of the Act. However, because there were no contemporaneous sales of merchandise comparable to the U.S. sales such that we found no matches, we used constructed value as the basis of NV.

Due to the extremely large number of transactions that occurred during the POR and the resulting administrative burden involved in examining all of these transactions, we sampled sales to calculate NV in accordance with section 777A of the Act. When a firm had more than 2,000 home market sales transactions for a particular class or kind of merchandise, we used sales in sample months that corresponded to the sample weeks we selected for U.S. sales sampling plus one contemporaneous month prior to the POR and one following the POR. The sample months were March, June, August, October, and November of 1996; and February, April, and June of 1997.

We used sales to affiliated customers only where we determined such sales were made at arm's-length prices, *i.e.*, at prices comparable to prices at which the firm sold identical merchandise to unaffiliated customers.

Because the Department disregarded sales that failed the cost test under section 773(b) of the Act in the last completed review with respect to FAG Italy, SKF France, SKF Germany, SKF Italy, SKF Sweden, Koyo, Nachi, NPBS, NSK, NTN Japan, NMB Singapore/Pelmec Ind., Barden U.K., and NSK/RHP and the classes or kinds of merchandise under review, we had reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in these reviews

may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated COP investigations of sales by these firms in the home market.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product plus selling, general and administrative (SG&A) expenses and all costs and expenses incidental to placing the foreign like product in condition packed ready for shipment. In our COP analysis, we used the home market sales and COP information provided by each respondent in its questionnaire responses. We did not conduct a COP analysis regarding a class or kind of merchandise for a respondent that reported no U.S. sales or shipments of that class or kind.

After calculating the COP, in accordance with section 773(b)(1) of the Act we tested whether home market sales of AFBs were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because the below-cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we disregarded the below-cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2) (B) and (C) of the Act and because, based on comparisons of prices to weighted-average COPs for the POR, we also determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. Based on this test, we disregarded below-cost sales with respect to all of the above companies and classes or kinds of merchandise except where there were no sales or shipments subject to review.

We compared U.S. sales with sales of the foreign like product in the home market or a third country, as noted above. We considered all non-identical products within a bearing family to be equally similar. As defined in the questionnaire, a bearing family consists of all bearings within a class or kind of merchandise that are the same in the following physical characteristics: load direction, bearing design, number of rows of rolling elements, precision rating, dynamic load rating, outer diameter, inner diameter, and width.

Home market or third-country prices were based on the packed, ex-factory or delivered prices to affiliated or unaffiliated purchasers. Where applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6) (A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses from NV. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP calculations.

In accordance with section 773(a)(1)(B)(i) of the Act, to the extent practicable, we based NV on sales at the same level of trade as the EP or CEP. If NV was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7) of the Act. (See *Level of Trade* below.)

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *Cemex* v. *United States*, 1998 WL 3626 (Fed. Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using CV as the basis for foreign market value when the Department finds home market sales to be outside the ordinary course of trade. This issue was not raised by any party in these 96/97 reviews. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. See section 771(15) of the Act. Because the Court's decision was issued so close to the deadline for completing these preliminary results, we have not had sufficient time to evaluate and apply (if appropriate and if there are adequate facts on the record) the decision to the facts of these post-URAA reviews. For these reasons, we have determined to continue to apply our policy regarding the use of CV when we have disregarded below-cost sales from the calculation of NV; however, we invite interested parties to comment, in their case briefs, on the applicability of the Cemex decision to these reviews.

In accordance with section 773(a)(4) of the Act, we used CV as the basis for NV when there were no usable sales of the foreign like product in the comparison market. We calculated CV in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market. For selling expenses, we used the weighted-average home market selling expenses. To the extent possible, we calculated CV by level of trade, using the selling expenses and profit determined for each level of trade in the comparison market.

Where appropriate, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 CFR 353.56 for COS differences and level-of-trade differences. For comparisons to EP, we made COS adjustments by deducting home market direct selling expenses and adding U.S. direct selling expenses. For comparisons to CEP, we made COS adjustments by deducting home market direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

Where possible, we calculated CV at the same level of trade as the EP or CEP. If CV was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and 773(a)(8) of the Act. (See *Level of Trade* below.)

Level of Trade

To the extent practicable, we determined NV for sales at the same level of trade as the U.S. sales (either EP or CEP). When there were no sales at the same level of trade, we compared U.S. sales to home market (or, if appropriate, third-country) sales at a different level of trade. The NV level of trade is that of the starting-price sales in the home market. When NV is based on CV, the

level of trade is that of the sales from which we derived SG&A and profit.

To determine whether home market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

For a company-specific description of our level-of-trade analysis for these preliminary results, see Memorandum to Laurie Parkhill, Level of Trade, January 26, 1998, on file in Import Administration's Central Records Unit (Room B–099 of the main Commerce building (hereafter, B–099).)

Methodology for Romania

Separate Rates

It is the Department's policy to assign all exporters of subject merchandise subject to review in a non-market-economy (NME) country a single rate unless an exporter can demonstrate that it is sufficiently independent to be entitled to a separate rate. For purposes of this "separate rates" inquiry, the Department analyzes each exporting entity under the test established in the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China, 56 FR 20588 (May 6, 1991) (Sparklers), as amplified in Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China, 59 FR 22585 (May 2, 1994) (Silicon Carbide). Under this test, exporters in NME countries are entitled to separate, company-specific margins when they can demonstrate an absence of government control over exports, both in law (*de jure*) and in fact (*de facto*).

Evidence supporting, though not requiring, a finding of *de jure* absence of government control includes: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies.

De facto absence of government control with respect to exports is based on four criteria: (1) Whether the export prices are set by or subject to the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has autonomy in making decisions regarding the selection of management; and (4) whether each exporter has the authority to negotiate and sign contracts. (See Silicon Carbide at 22587).

We have determined that the evidence of record demonstrates an absence of government control, both in law and in fact, with respect to exports by TIE according to the criteria identified in Sparklers and Silicon Carbide. For a discussion of the Department's preliminary determination that TIE is entitled to a separate rate, see Memorandum from Kristie Strecker to Laurie Parkhill, dated January 26, 1998, "Assignment of Separate Rate for Tehnoimportexport: 1995–96 Administrative Review of the Antidumping Duty Order on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From Romania" (Separate Rate Memo), which is a public document on file in B–099. Since TIE is preliminarily entitled to a separate rate and is the only Romanian firm for which an administrative review has been requested, it is not necessary for us to review any other Romanian exporters of subject merchandise.

Export Price—Romania

For sales made by TIE we based our margin calculation on EP as defined in section 772(a) of the Act because the subject merchandise was first sold before the date of importation by the exporter of the subject merchandise outside of the United States (TIE) to unaffiliated purchasers in the United States.

We calculated EP based on the packed price to unaffiliated purchasers in the United States. We made deductions from the price used to establish EP, where appropriate, for foreign inland freight, bank charges and international freight (air and ocean). To value foreign inland freight we used the freight rates from the public version of the Factors of Production Memorandum from Disposable Lighters from the People's Republic of China (A–570–834) (Lighters from the PRC) (April 27, 1995), which is on file in B–099 (for this expense, as well as any other adjustments or factors in our calculations for which we relied on pre-POR statistics discussed below, we adjusted those statistics by annual rates of inflation). We used the actual reported expenses for international freight and bank charges because the expenses were paid to market-economy suppliers and incurred in market-economy currencies. No other adjustments were claimed or allowed.

Normal Value—Romania

For merchandise exported from a NME country, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors-of-production methodology if available information does not permit the calculation of NV using home-market or third-country prices under section 773(a) of the Act. In every investigation or review conducted by the Department involving Romania, we have treated Romania as a NME country. None of the parties to this proceeding has contested such treatment in this review and, therefore, we have maintained our treatment of Romania as a NME for these preliminary results.

Accordingly, we calculated NV in accordance with section 773(c) of the Act and 19 CFR 353.52. In accordance with section 773(c)(3) of the Act, the factors of production used in producing AFBs include, but are not limited to, hours of labor required, quantities of raw materials employed, amounts of energy and other utilities consumed, and representative capital cost, including depreciation.

In accordance with section 773(c)(4) of the Act, the Department valued the factors of production, to the extent possible, using the prices or costs of factors of production in market-economy countries which are at a level of economic development comparable to that of Romania and which are significant producers of comparable merchandise. We determined that Indonesia is at a level of economic development comparable to that of Romania. We also found that Indonesia is a producer of bearings. Therefore, we have selected Indonesia as the primary surrogate country. For a further discussion of the Department's selection of surrogate countries, see Memorandum from Kristie Strecker to Laurie Parkhill, dated January 26, 1998, "Surrogate-Country Selection: 1996–97 Administrative Review of the Antidumping Duty Order on Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from Romania" (Surrogate Memo), which is a public document on file in B–099.

For purposes of calculating NV, we valued the Romanian factors of production as follows:

• Where direct materials used to produce AFBs were imported by the producers from market-economy countries, we used the import price to value the material input. To value all other direct materials used in the production of AFBs, *i.e.*, those which were sourced from within Romania, we used the import value per metric ton of these materials into Indonesia as published in the Indonesian Foreign Trade Statistical Bulletin—Imports, which includes data on months during the POR. We made adjustments to include freight costs incurred between the domestic suppliers and the AFB factories, using freight rates obtained from the public version of the April 27, 1995 calculation memorandum of Lighters from the PRC, which is on file in B–099. We also reduced the steel input factors to account for the scrap steel that was sold by the producers of the relevant bearings.

• For direct labor, we used the Indonesian average daily wage and hours worked per week for the iron and steel basic industries reported in the 1994 Special Supplement to the Bulletin of Labour Statistics, published by the International Labour Office. We added amounts to labor rates to account for benefits. We used information from the Foreign Labor Trends, as used in Lighters from the PRC, which shows supplementary benefits to be thirty-three percent of manufacturing earnings.

• For factory overhead, SG&A expenses, and profit, we could not find values for the bearings industry in Indonesia. Therefore, consistent with AFBsVII, we used the percentages calculated from the financial statements of the Indonesia company, P.T. Jaya Pari Steel Ltd. Corporation. We determined that amounts for energy usage for electricity and natural gas were included in the overhead calculations in these financial statements.

• To value packing materials, where materials used to package AFBs were imported into Romania from market-economy countries, we used the import price. To value all other packing materials, *i.e.*, those sourced from within Romania, we used the import value per metric ton of these materials (adjusted with the wholesale-price-index inflator to place these values on an equivalent basis) as published in the Indonesian Foreign Trade Statistical Bulletin—Imports. We adjusted these values to include freight costs incurred between the domestic suppliers and the AFB factories. To value freight costs, we used freight rates obtained from the public version of the calculation memorandum in Lighters from the PRC, cited above.

Preliminary Results of Reviews

As a result of our reviews, we preliminarily determine the weighted-average dumping margins (in percent) for the period May 1, 1996, through April 30, 1997 to be as follows:

Company	BBs	CRBs	SPBs
France			
SKF	7.40	[3]	76.57
SNFA	0.55	1.78	[3]
Germany			
SKF	2.27	7.33	5.24
Torrington NAD	[2]	11.38	[3]
Italy			
FAG	1.18	[3]	
SKF	3.22	[3]	
Meter	[3]	10.65	
Somecat	0.00	[3]	
Japan			
Koyo Seiko	6.29	[3]	[3]
Nachi	6.83	8.53	[3]
NPBS	2.33	[2]	[3]
NSK Ltd.	5.87	2.27	[3]
NTN	6.16	12.50	10.39
Romania			
TIE	0.90		
Singapore			
NMB Singapore/ Pelmec Ind.	4.49		
Sweden			
SKF	11.73	[2]	
United Kingdom			
NSK/RHP	16.66	21.08	
FAG (U.K.)	[2]	[2]	
Barden	8.02	[1]	
SNFA	58.20	[3]	

[1] No shipments or sales subject to this review. The firm has an individual rate from the last relevant segment of the proceeding in which the firm had shipments/sales.

[2] No shipments or sales subject to this review. The firm has no individual rate from any segment of this proceeding.

[3] No review requested.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A general issues hearing, if requested, and any hearings regarding issues related solely to specific countries, if requested, will be held in accordance with the following schedule and at the indicated locations in the main Commerce Department building:

Case	Date	Time	Room No.
General Issues	March 18, 1998	8:30 a.m.	1412
Sweden	March 19, 1998	8:30 a.m.	1412
Romania	March 19, 1998	2:00 p.m.	1412
Germany	March 20, 1998	8:30 a.m.	1412
Italy	March 23, 1998	8:30 a.m.	1412
Singapore	March 23, 1998	2:00 p.m.	1412
United Kingdom	March 24, 1998	8:30 a.m.	1412
France	March 24, 1998	2:00 p.m.	1412
Japan	March 25, 1998	8:30 a.m.	1412

Issues raised in hearings will be limited to those raised in the respective case and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than the dates shown below for general issues and the respective country-specific cases. Parties who submit case or rebuttal briefs in these proceedings are requested to submit with each argument (1) a statement of the issue, and (2) a brief summary of the argument.

Case	Briefs due	Rebuttals due
General Issues.	March 9, 1998	March 16, 1998.
Sweden	March 10, 1998.	March 17, 1998.
Romania	March 10, 1998.	March 17, 1998.

Case	Briefs due	Rebuttals due
Germany	March 11, 1998.	March 18, 1998.
Italy	March 12, 1998.	March 19, 1998.
Singapore	March 12, 1998.	March 19, 1998.
United Kingdom.	March 13, 1998.	March 20, 1998.
France	March 13, 1998.	March 20, 1998.
Japan	March 16, 1998.	March 23, 1998

The Department will publish the final results of these administrative reviews, including the results of its analysis of issues raised in any such written briefs or hearings. The Department will issue final results of these reviews within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Because sampling and the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated importer-specific ad valorem duty assessment rates for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between statutory NV and statutory EP or CEP, by the total statutory EP or CEP value of the sales compared and adjusting the result by the average difference between EP or CEP and customs value for all merchandise examined during the POR).

In some cases, such as EP situations, the respondent does not know the entered value of the merchandise. For these situations, we have either calculated an approximate entered value or an average unit dollar amount of antidumping duty based on all sales examined during the POR. (See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from the Federal Republic of Germany; Final Results of Antidumping Duty Administrative Review, 56 FR 31694 (July 11, 1991).) The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of these reviews.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies will be those rates established in the final results of these reviews (except that no deposit will be required for firms with zero or *de minimis* margins, *i.e.*, margins less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the "all others" rate made effective by the final results of the 1991–92 administrative reviews of these orders (See Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.: Final Results of Antidumping Duty Administrative Reviews and Revocation in Part of an Antidumping Duty Order, 58 FR 39729 (July 26, 1993), and Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof From France, et al.; Final Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews, 61 FR 66472 (December 17, 1996)). As noted in those previous final results, these rates are the "all others" rates from the relevant LTFV investigations. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative reviews.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: February 2, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3212 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–601]

Brass Sheet and Strip from Canada: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent To Revoke Order in Part

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of preliminary results of Antidumping Duty Administrative Review and Notice of Intent to Revoke Order in Part.

SUMMARY: In response to a request by the respondent, the Department of Commerce is conducting an administrative review of the antidumping duty order on brass sheet and strip from Canada. The review covers one manufacturer/exporter of this merchandise to the United States, Wolverine Tube (Canada), Inc. The period covered is January 1, 1996 through December 31, 1996. As a result of the review, the Department has preliminarily determined that no dumping margins exist for this respondent. We intend to revoke the order with respect to brass sheet and strip from Canada manufactured by Wolverine, based on our preliminary determination that Wolverine has sold the merchandise at not less than fair value for a period of three consecutive years and that it is not likely that Wolverine will sell this product to the United States at less than normal value in the future.

We invite interested parties to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Tom Futtner, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th

Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4474 or 482–3814, respectively.

Applicable Statute and Regulations

Unless otherwise stated, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all references to the Department's regulation are to 19 CFR part 353 (April 1, 1997).

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published an antidumping duty order on brass sheet and strip from Canada on January 12, 1987 (52 FR 1217). On January 14, 1997, the Department published a notice of "Opportunity to Request an Administrative Review" of the antidumping duty order on brass sheet and strip from Canada (62 FR 1874). On January 31, 1997, a manufacturer/exporter, Wolverine Tube (Canada), Inc. (Wolverine) requested an administrative review of its exports of the subject merchandise to the United States for the period of review January 1, 1996, through December 31, 1996. In accordance with 19 CFR 353.22(c), we initiated the review on March 3, 1997 (62 FR 9413). The Department is now conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

Imports covered by this review are shipments of brass sheet and strip (BSS), other than leaded and tinned BSS. The chemical composition of the covered products is currently defined in the Copper Development Association (C.D.A.) 200 Series or the Unified Numbering System (U.N.S.) C2000. This review does not cover products the chemical compositions of which are defined by other C.D.A. or U.N.S. series. In physical dimensions, the products covered by this review have a solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound-on-reels (traverse wound), and cut-to-length products are included. The merchandise is currently classified under Harmonized Tariff Schedule (HTS) item numbers 7409.21.00 and 7409.29.00. Although the HTS item numbers are provided for convenience and customs purposes, the written description of the scope of this order remains dispositive. Pursuant to the final affirmative determination of circumvention of the antidumping duty order, covering the period September 1, 1990, through September 30, 1991, we determined that brass plate used in the production of BSS falls within the scope of the antidumping duty order on BSS from Canada. See Brass Sheet and Strip from Canada: Final Affirmative Determination of Circumvention of Antidumping Duty Order, 58 FR 33610 (June 18, 1993).

The review period (POR) is January 1, 1996 through December 31, 1996. The review involves one manufacturer/exporter, Wolverine.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent, Wolverine, by using our standard verification procedures, including the examination of relevant sales and financial records and selection or original documentation containing relevant information. Our verification results are outlined in the public version of the verification report—"Sales and Cost Verification Report, Wolverine Tube (Canada), Inc.".

United States Price (USP)

In calculating USP for Wolverine, we used export price (EP), as defined in section 772 of the Act, because the merchandise was sold to unaffiliated U.S. purchasers prior to the date of importation and because no other circumstances indicated that constructed export price was appropriate. We calculated EP based on prices that were delivered to the customers' premises. In accordance with section 772(c)(1) of the Act, we adjusted USP for brokerage and handling, foreign and U.S. inland freight, and customs duty. No other adjustments to EP were claimed or allowed.

Normal Value

A. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Wolverine's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(B) of the Act. Because Wolverine's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Wolverine.

B. Below Cost of Production Test

Because we disregarded sales below the cost of production in the 1995 POR, the most-recently completed segment of these proceedings, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for determining NV in this review may have been at prices below the cost of production (COP), as provided in section 773(b)(2)(A)(ii) of the Tariff Act. Therefore, pursuant to section 773(b)(1) of the Tariff Act, we initiated a COP investigation of sales by Wolverine (see Memorandum to the File, dated March 20, 1997, available in Room B–099 of the Main Commerce Building). In accordance with section 773(b)(3) of the Tariff Act, we calculated COP based on the sum of materials and fabrication employed in producing the foreign like product, plus selling, general, and administrative expenses (SG&A) and the cost of all expenses incidental to placing the foreign like product in condition packed ready for shipment. We relied on the home market sales and COP information Wolverine provided in its questionnaire responses. After calculating COP, we tested whether home market sales of subject BSS were made at prices below COP within an extended period of time in substantial quantities, and whether such prices permitted the recovery of all costs within a reasonable period of time. We compared model-specific COPs to the reported home market prices less any applicable movement charges.

For purposes of the below cost of production test conducted for home market comparison sales we allocated a portion of selling, general and administrative (SG&A) expenses for the corporate headquarters in Huntsville/Decatur, Alabama to Wolverine's cost of production (COP). This additional allocation was based on SG&A and cost of sales information taken from Wolverine's financial statements. In its questionnaire response, Wolverine did not allocate SG&A for its Huntsville/Decatur corporate headquarters although it did allocate SG&A for its London, Ontario corporate offices. At verification, however, discussions with company officials and a review of company correspondence revealed that the Fergus, Ontario facility was subject to significant guidance and control by corporate headquarters in Huntsville/Decatur during the POR. (See the analysis memorandum dated January 20, 1998 for details.)

Pursuant to section 773(b)(2)(C) of the Tariff Act, where less than twenty percent of Wolverine's home market sales for a model were at prices less

than the COP, we did not disregard any below-cost sales of that model because we determined that the below-cost sales were not made within an extended period of time in "substantial quantities." Where twenty percent or more of Wolverine's home market sales were at prices less than the COP, we determined that such sales were made within an extended period of time in substantial quantities in accordance with section 773(b)(2) (B) and (C) of the Tariff Act. To determine whether such sales were at prices which would not permit the full recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Tariff Act, we compared home market prices to the weighted-average COPs for the POR. The results of our cost test for Wolverine indicated that for certain home market models less than twenty percent of the sales of the model were at prices below COP. We therefore retained all sales of these models in our analysis and used them as the basis for determining NV. Our cost test for Wolverine also indicated that for certain other home market models more than twenty percent of the home market sales within an extended period of time were at prices below COP and would not permit the full recovery of all costs within a reasonable period of time. In accordance with section 773(b)(1) of the Tariff Act, we therefore excluded the below-cost sales of these models from our analysis and used the remaining above-cost sales as the basis for determining NV.

C. Model-Matching

We calculated NV using prices of BSS products having the same characteristics as to form, temper, gauge, width, and alloy. We used the same gauge and width groupings and the same model-match methodology in this review as in the last completed administrative review (1995). As in the 1995 review, we disregarded "source" designations in the product codes for model matching purposes since the "sources", *i.e.*, whether reroll or nonreroll brass is used to make the product, does not appear to describe physical characteristics of the resulting subject merchandise itself. Wolverine claimed in its response that the grain density of the reroll material obtained from outside suppliers was higher than that of its own cast material. Although this may be the case, respondent's claim has not been substantiated on the record of this review. Moreover, we requested in our supplemental questionnaire that respondent submit product codes accounting for physical characteristics only, including grain density, but excluding source. In its response, respondent did not then report grain density in place of source. Furthermore, we determined at verification that reporting grain density would not have caused any hardship for the respondent. The factory lab was outfitted with equipment capable of accurately determining grain size/density and other product characteristics such as purity levels. In addition, we determined that grain density was routinely monitored throughout the product process. Therefore, since "source" does not describe a physical product characteristic, and since the respondent did not report grain density as we requested, we are not including "source" as a product matching characteristic. Moreover, the absence of grain density information does not favor Wolverine. Purchased re-roll material, presumably of higher quality and higher cost materials, was sold during the period of review only in the home market. Thus, those sales were matched with Wolverine's own cast materials, sold in the U.S. market, thereby increasing the likelihood and magnitude of dumping margins.

D. Level of Trade

In our supplemental questionnaire we specifically asked the respondent to describe its reasons for claiming there were different terms of sale or selling prices to different classes of customer. Respondent described three distinct customer categories in the home market and one in the U.S. market, but did not explain how Wolverine's selling functions varied for each customer category.

As documentation to support its level of trade (LOT) claim, the respondent supplied price lists, but these lists do not show any differences in selling functions or illustrate the source of price differences for different customer categories. The respondent did not provide any other information to document, justify, or quantify its reported differences in selling functions in order to establish the claimed three different LOTs in the home market. Further, at verification we discussed the process by which customers were placed in a particular category. We noted no indication of different selling functions corresponding to various customers on the basis of customer category or otherwise.

Upon review of the case record, we have determined that although distinct customer categories existed, there is no evidence on the record, in terms of selling functions performed by Wolverine, correlating them to levels of trade. Thus, although customer categories may exist, they are distinct from any level of trade designations which we may consider in calculating dumping margins for Wolverine. Because the record does not show that Wolverine performed different selling functions with respect to different channels of distribution, we determined that there is only one LOT in the home market. See Ferrosilicon from Brazil: Notice of Partial Termination and Preliminary Results of Antidumping Duty Administrative Review, 63 FR 2661 (January 16, 1998). Furthermore, since we noted no different selling functions in the U.S. market, no LOT adjustment is necessary.

E. Price-to-Price Comparisons

We calculated NV using monthly weighted-average prices of BBS having the same characteristics as to form, temper, gauge, width, and alloy. We based NV on the price at which the foreign like product is first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade, and at the same level of trade as the export price, as defined by section 773(a)(1)(B)(i) of the Act.

We reduced NV for home market credit and warranty expenses, and increased NV for U.S. credit expenses in accordance with section 773(a)(6)(C)(iii), due to differences in circumstances of sale. We reduced NV for home market movement expenses, in accordance with section 773(a)(6)(B)(ii); and for packing costs incurred in the home market, in accordance with section 773(a)(6)(B)(i); and increased NV to account for U.S. packing expenses. No other adjustments to NV were claimed or allowed.

Revocation

On January 31, 1997, Wolverine submitted its request for an administrative review covering the 1996 POR and, pursuant to 19 CFR 353.25(b), requested revocation of the antidumping duty order with respect to Wolverine. In its request, Wolverine stated that it expected to received a *de minims* margin in the 1996 POR. Wolverine noted that this would be the third consecutive *de minimis* margin received, and thus Wolverine would be eligible for revocation. In accordance with 19 CFR 353.25(a)(2)(iii), this request was accompanied by certifications from the firm that it had not the relevant class or kind of merchandise at less than normal valve (NV) for a three-year period including this review period, and would not do so in the future. Wolverine also agreed to its immediate reinstatement in the

relevant antidumping duty order, as long as any firm is subject to this order, if the Department concludes under 19 CFR 353.22(f) that, subsequent to revocation, it sold the subject merchandise at less than NV. On August 1, 1997, the petitioner submitted a request that the deadline for the preliminary results in this review be fully extended by 120 days in order to develop the administrative record with respect to revocation. In addition, the petitioner claimed that the burden for demonstrating "no likelihood" of future dumping as stipulated under 19 CFR 353.25(a)(2) was on the respondent, and that the respondent should be required to place on the record historical data covering its operations over the preceding five years. In addition, the petitioner requested that the Department require the respondent to submit specific planning data regarding future production of subject and non-subject merchandise.

On September 15, 1997, the Department extended the deadline for the preliminary determination. However, the Department did not find compelling cause to request respondent to produce the extensive historical and planning data which the petitioner proposed was necessary to determine whether future dumping was "not likely." On October 16, 1997, the Department informed interested parties that the administrative record would be re-opened for submission of comments and rebuttal comments pertaining to the issue of likelihood of future dumping. Both respondent and petitioner submitted comments and rebuttal comments in a timely manner.

Interested Party Comments on Whether Future Dumping is Likely

On November 10, 1997, Wolverine and petitioner submitted comments on the issue of whether or not it is likely that Wolverine would resume dumping if the Department granted revocation as to that firm. First, the respondent noted that it received two consecutive zero or *de minimis* margins and is committed to refrain from dumping in the future and has made certifications to this effect as stipulated under the Department's regulations. The petitioner has not challenged these facts or the adequacy of the certifications.

Second, Wolverine states that dumping is unlikely to resume given the similar nature of price, supply, and demand patterns common to both the Canadian and U.S. markets. Wolverine asserts that this limits the potential for price differences in each market. Petitioner states that Wolverine's claim that North America is a unified market for BSS is unsubstantiated by specific company information.

Third, Wolverine cites favorable market conditions which it claims render future dumping unlikely. In its November 10, 1997, submission of comments regarding the likelihood of future dumping, Wolverine included as exhibits market reports and articles from *American Metal Market* and *Purchasing* which characterize the market for copper, copper alloys and brass as strong and steady. The articles and reports cite increasing lead times, low inventories, rising prices and strong demand as factors contributing to an environment in which dumping is not likely. In addition, respondent cites expanded applications of brass mill products, such as used in construction of ship hulls and electric vehicles, which may result in increased demand.

Fourth, Wolverine notes that it lacks both the means and the incentive to abuse revocation. Respondent notes that it competes largely by servicing established home market customers with a diversified product range. Since its customers require a diversified product range, its brass production capacity is limited and although its brass business is profitable, if it received an order for its other more profitable products it would choose the latter. Therefore, according to Wolverine, the potential impact of its brass sales on the U.S. market would be miniscule in any case. Petitioner claims that respondent did not substantiate its claims that it had no economic incentive to devote its entire capacity to production for the U.S. market. In addition, petitioner notes that Wolverine's statements regarding its minimal potential impact on the U.S. market are irrelevant and do not support a finding that it is not likely that Wolverine will dump in the future.

Petitioner's comments cited its August 1, 1997, letter in which it requested five-year historical data and background/planning information and reiterated its request that the Department require that Wolverine (or the Department) place this information on the record of this proceeding. Petitioner has stated that much of this information was placed on the records of prior proceedings. Petitioner reiterated its view that the burden of showing that Wolverine is not likely to resume dumping following revocation rests on the respondent. In this respect, petitioner argues that five-year historical data on many aspects of Wolverine's trade with the United States is necessary to establish sales trends in order to determine the likelihood of future dumping, and claims that much of the requested information is already on the record of prior proceedings and would not be difficult to collect. Petitioner claims that respondent's sales of subject merchandise in the United States have declined since imposition of the antidumping duty order. Petitioner also claims that the loss of certain business by respondent in the home market would dispose respondent to future dumping. Finally, respondent asserted that the petitioner's comments contained no factual evidence on the subject of revocation and that petitioner's actual purpose in requesting additional time to develop the record with respect to revocation was part of a strategy to delay the conclusion of this review and to deny respondent revocation.

Department Analysis

Petitioner has not shown that the additional data it requested the Department gather is necessary to resolve whether it is not likely that Wolverine would dump subject merchandise were the order revoked as to that company. Furthermore, we note that much of the data requested by petitioner is not on the record of prior reviews and collecting it would impose a considerable administrative burden on the Department. In view of the fact that each administrative review is conducted as a separate segment of the proceeding pursuant to the Department's regulations, the burden of gathering additional information, and the failure of petitioner to demonstrate any compelling need for the Department to consider the requested information in determining whether it should revoke the order as to Wolverine, the Department has declined to gather (and include) further information in the administrative record of this review. On this issue, the Department has a considerable factual record before it. At the request of the parties, the Department established a process for the submission of factual information on the issue of whether it is not likely that dumping would resume in the future. As discussed above, both the petitioner and the respondent made submissions of information relevant to this issue. Accordingly, the Department has an adequate record before it on which to make a determination on the revocation issue.

Under the Department's regulations, the Department may revoke an order in part if the Secretary concludes that: (1) "one or more producers or resellers covered by the order have sold the merchandise at not less than fair value for a period of at least three consecutive years"; (2) "[i]t is not likely that those persons will in the future sell the

merchandise at less than fair value * * *"; and (3) "the producers or resellers agree in writing to the immediate reinstatement of the order as long as any producer or reseller is subject to the order, if the Secretary concludes that the producer or reseller, subsequent to the revocation, sold the merchandise at less than fair value." See 19 CFR 353.25(a)(2).

Upon review of the three criteria described above, and of the comments and rebuttal comments, and on the basis of all of the evidence on the record, we have preliminarily determined that the Department's requirements for revocation have been met. The Department found that Wolverine's sales reviewed during the eighth (1994) and ninth (1995) reviews under this order were made at not less than NV. Also, in this tenth review, we have preliminarily determined that Wolverine's sales were made at not less than NV. Further, Wolverine has certified its consent to immediate reinstatement of the order should the situation described in the third criterion noted above occur.

With respect to the second criterion, the Department stated, in Brass Sheet and Strip from Germany, Final Results of Antidumping Duty Administrative Review and Determination Not to Revoke in Part, 61 FR 49728 (9/23/96): "[i]n prior cases where revocation was under consideration and the likelihood of resumption of dumped sales was at issue, the Department has considered, in addition to the respondent's prices and margins in the preceding periods, such other factors as conditions and trends in the domestic and home market industries, currency movements, and the ability of the foreign entity to compete in the U.S. marketplace without LTFV sales." 61 FR at 49731. In this proceeding, the information submitted by the parties, and the comments received, centered upon three main conditions: (1) Supply and demand for BSS, (2) the quantitative trend of respondent's sales in the U.S. market since respondent received its first zero margin (as a measure of its ability to sell commercial quantities at fair market value), and (3) the effects of currency movements with respect to price comparisons between the home market and the U.S. market.

First, as noted by respondents, demand for subject merchandise in the U.S. and Canadian markets remains strong and conditions are favorable to a positive market environment for subject merchandise. Strong, profitable markets tend not to precipitate dumping. The reports and articles supplied by respondent in its November 10, 1997, submission contain factual information and forecasts by industry analysts which characterize market condition for BSS products as positive with evidence indicating the likelihood of continued growth and positive performance. No evidence was placed on the record characterizing the market otherwise.

We note, however, that Wolverine's argument that dumping would be precluded because market conditions for BSS products are similar in the Canadian and U.S. markets is not substantiated by evidence on the record.

With respect to the question of whether Wolverine would have an economic incentive to devote its entire capacity to production for the U.S. market, it is evident, based on information reviewed at verification and a review of sales of subject and non-subject merchandise, that Wolverine does provide a mix of products to a variety of U.S. and home market customers. We also noted at verification that there are indications that there may be some strategic and physical limitations in capacity with respect to production of BSS at the Fergus plant. This does not preclude future expansion of capacity, however, under proper market conditions. In addition, we note that, as petitioner points out, the potential impact of a foreign exporter's sales on the U.S. market is not relevant in determining whether dumping is currently taking place or whether it is likely to resume in the future.

With respect to petitioner's claim that, despite the generally strong market for BSS, loss of certain business would dispose Wolverine to future dumping, we noted at verification that this respondent had taken significant steps and devoted significant resources to restoring/replacing the business in question, and to developing alternative non-subject products to make up for lost business. Furthermore, it is not clear that diminished capacity utilization, even should it occur, would necessarily contribute to the likelihood of future dumping.

Second, unlike the facts underlying our determination in Brass Sheet and Strip from Germany, in which we determined not to revoke the order as to a requesting respondent, this review covers multiple shipments of subject merchandise to the U.S. market. In Brass Sheet and Strip from Germany, the respondent in question had made only a single shipment during the review at issue.

Third, exchange rate data taken from the Import Administration's currency database indicate that from January of 1996 through September of 1997, the Canadian dollar-U.S. dollar exchange rate remained stable. There is no indication that the Canadian dollar might drastically appreciate, precipitating the potential for disparities in Canadian and U.S. selling prices of subject merchandise which would make dumping margins more likely. In fact, the Canadian dollar has actually depreciated slightly against the U.S. dollar.

Thus, the Department preliminarily determines that this criterion for revocation has been met.

Preliminary Results of the Review

As a result of our comparison of EP to NV, we preliminarily determine that a *de minimis* dumping margin (0.42 percent) exists for Wolverine for the period January 1, 1996 through December 31, 1996, and we determine, preliminarily, to revoke partially the antidumping duty order with respect to imports of subject merchandise from Wolverine.

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication of this notice. Any hearing will be held 44 days after the date of publication or the first workday thereafter. Interested parties may submit case briefs within 30 days of the publication date of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such case briefs or at a hearing, within 120 days from publication of these preliminary results. The following deposit requirements will be effective for all shipments of the subject merchandise that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for Wolverine will be the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the manufacturer nor the exporter is a firm

covered in this or any previous review, the cash deposit rate will be 8.10 percent, the "all others" rate established in the LTFV investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review. Furthermore, The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: February 2, 1998.

Robert S. LaRussa,

Assistant Secretary, Import Administration.

[FR Doc. 98–3200 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–427–812]

Calcium Aluminate Flux From France; Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent To Revoke Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty administrative review, and intent to revoke order.

EFFECTIVE DATE: February 9, 1998.

SUMMARY: In response to a December 12, 1997 request from Lafarge Aluminates and Lafarge Calcium Aluminates (Lafarge), the sole respondent in this case, the Department of Commerce (the Department) is initiating a changed circumstances antidumping duty administrative review and issuing an intent to revoke the order on calcium aluminate flux from France. Based on the fact that Lehigh Portland Cement, the petitioner, has expressed no interest in the importation and sales of calcium aluminate flux, we have preliminarily determined to revoke the antidumping duty order on calcium aluminate flux from France.

Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Maureen McPhillips or Linda Ludwig, AD/CVD Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–0193 or (202) 482–3833.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (62 FR 27296, May 19, 1997).

Background

On March 25, 1994, the Department published the final determination in the less-than-fair-value (LTFV) investigation on calcium aluminate flux from France, and subsequently published an antidumping duty order on June 13, 1994 (59 FR 30337). On December 12, 1997, Lafarge, the respondent, requested that the Department conduct a changed circumstances administrative review to determine whether a Lehigh Portland Cement (Lehigh), the petitioner in the original investigation, continues to have an interest in the antidumping duty order on calcium aluminate flux. Based on information provided by Lafarge's customers and contacts in the industry, Lafarge asserts that Lehigh is not currently producing calcium aluminate flux and that it does not intend to continue to supply calcium aluminate flux to U.S. customers in the future. If we find that Lehigh is no longer a producer of calcium aluminate flux and therefore has no further interest in the underlying order, Lafarge requests that the Department revoke the antidumping duty order based on these changed circumstances.

Subsequent to Lafarge's request for a changed circumstances administrative review, Lehigh, the petitioner and the sole U.S. producer of the subject merchandise during the original investigation, informed the Department that it had no interest in continuing the antidumping duty order on calcium aluminate flux from France (see Memorandum to the File, January 28, 1998).

Scope of the Review

Imports covered by this review are shipments of CA flux, other than white, high purity CA flux. This product contains by weight more than 32 percent but less than 65 percent alumina and more than one percent each of iron and silica.

CA flux is currently classifiable under the *Harmonized Tariff Schedule of the United States* (HTSUS) subheading 2523.10.0000. The HTSUS subheading is provided for convenience and U.S. Customs' purposes only. The written description of the scope of this order remains dispositive.

Initiation and Preliminary Results of Changed Circumstances Antidumping Duty Administrative Review, and Intent to Revoke

In accordance with Section 751(b) of the Act and section 351.216 of the Department's regulations, the Department is initiating a changed circumstances review on calcium aluminate flux from France to determine whether revocation of the order is warranted. Section 782(h)(2) of the Act and section 351.222(g)(1)(i) of the Department's regulations further provide that the Department may revoke an order if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order. In addition, in the event the Department determines that expedited action is warranted, section 351.221(c)(3)(ii) of the regulations permits the Department to combine the notices of initiation and preliminary results. We believe that expedited action is warranted in this case due to Lafarge's assertion that Lehigh has ceased production of the subject merchandise altogether in the United States.

Based on an affirmative statement of no interest in the order by the Petitioner, as memorialized in our January 28, 1998 Memorandum to the File, we have preliminarily determined that the order on calcium aluminate flux is no longer of interest to domestic interested parties. Because we have concluded that expedited action is warranted, we are combining these notices of initiation and preliminary results. Therefore, we are hereby notifying the public of our intent to revoke the antidumping duty order on calcium aluminate flux from France.

Interested parties may submit case briefs and/or written comments no later

than 30 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will issue the final results of this changed circumstances review, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which this review was initiated, or within 45 days if all parties agree to our preliminary determination. See section 351.216(e) of the Department's regulations.

If final revocation occurs, we will instruct the U.S. Customs Service to end the suspension of liquidation and to refund, with interest, any estimated antidumping duties collected for all unliquidated entries of calcium aluminate flux from France. The current requirement for a cash deposit of estimated antidumping duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of this changed circumstances review.

This initiation of review and notice are in accordance with sections 751(b) of the Act, as amended (19 U.S.C. 1675(b)), and 19 C.F.R. 351.216.

Dated: February 3, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3211 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–824]

Certain Corrosion-Resistant Carbon Steel Flat Products From Japan: Extension of Time Limit for Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary results of antidumping duty administrative review.

SUMMARY: The Department of Commerce ("the Department") is extending the time limit for the preliminary results of the review of certain corrosion-resistant carbon steel flat products from Japan. This review covers the period August 1, 1996 through July 31, 1997.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Doreen Chen, Robert Bolling or Stephen Jacques at 202 482–0413, 482–3434 or 482–1391, respectively; Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, D.C. 20230.

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930 ("the Act") are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Rounds Agreements Act.

Extension of Preliminary Results

The Department has determined that it is not practicable to issue its preliminary results within the original time limit. (See Decision Memorandum from Joseph A. Spetrini, Deputy Assistant Secretary, Enforcement Group III to Robert LaRussa, Assistant Secretary for Import Administration, January 30, 1998). The Department is extending the time limit for completion of the preliminary results until July 2, 1998 in accordance with Section 751(a)(3)(A) of the Act. The Department is also extending the time limit for submission of factual information up to an additional 60 days.

The deadline for the final results of this review will continue to be 120 days after publication of the preliminary results.

Dated: January 30, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary for Enforcement Group III.

[FR Doc. 98–3197 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–802]

Notice of Extension of Time Limit for Antidumping Duty Administrative Review of Gray Portland Cement From Mexico

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: February 9, 1998.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the 1996–1997 administrative review for the antidumping order on Gray Portland Cement from Mexico, pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (hereinafter, "the Act").

FOR FURTHER INFORMATION CONTACT: Kirsten Smith, Kristen Stevens, or Steven Pressing, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone (202) 482–3793.

SUPPLEMENTARY INFORMATION: Under the Act, the Department may extend the deadline for completion of an administrative review if it determines that it is not practicable to complete the review within the statutory time limit of 365 days. In the instant case, the Department has determined that it is not practicable to complete the review within the statutory time limit.

Since it is not practicable to complete this review within the time limits mandated by the Act (245 days from the last day of the anniversary month for preliminary results, 120 additional days for final results), in accordance with Section 751(a)(3)(A) of the Act, the Department is extending the time limit as follows:

Product	Country	Review period	Initiation date	Prelim due date	Final due date*
Gray Portland Cement (A–201–802)	Mexico	8/1/96–7/31/98	9/25/97	8/31/98	12/30/98

*The Department shall issue the final determination 120 days after the publication of the preliminary determination.

Dated: February 23, 1998.

Joseph A. Spetrini,

Deputy Assistant Secretary, For Enforcement III.

[FR Doc. 98–3204 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–824]

Polyvinyl Alcohol From Taiwan: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner, Air Products and Chemicals, Inc., and by two manufacturers/exporters and an importer of subject merchandise, the Department of Commerce is conducting an administrative review of the antidumping duty order on polyvinyl alcohol from Taiwan. The period of review is May 15, 1996, through April 30, 1997.

We have preliminarily found that sales of subject merchandise have been made below normal value. If these preliminary results are adopted in our final results of administrative review, we will instruct the Customs Service to assess antidumping duties based on the difference between the export price or constructed export price and the normal value.

Interested parties are invited to comment on these preliminary results. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Everett Kelly, at (202) 482–4194; or Sunkyu Kim, at (202) 482–2613, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended ("the Act"), by the Uruguay Round Agreements Act ("URAA"). In addition, unless otherwise indicated, all citations to the Department of Commerce's ("the Department's") regulations are to the provisions codified at 19 CFR Part 353 (April 1997). Where appropriate, references are made to the Department's final regulations at 19 CFR Part 351 (62 FR 27926), as a statement of current departmental practice.

Case History

On May 14, 1996, the Department published in the **Federal Register** an antidumping duty order on polyvinyl alcohol from Taiwan. See 61 FR 24286. On May 2, 1997, the Department published a notice providing an opportunity to request an administrative review of this order for the period May 15, 1996, through April 30, 1997 (62 FR 24081). On May 23, 1997, we received a request for an administrative review from E.I. du Pont de Nemours & Co. ("DuPont"). We received requests for a review from Chang Chun Petrochemical ("Chang Chun") and Perry Chemical Corporation ("Perry") on May 30, 1997. The petitioner also requested a review of Chang Chun and Perry on May 30, 1997. We published a notice of initiation of this review on June 19, 1997 (62 FR 33394).

On June 23, 1997, we issued an antidumping questionnaire to the three companies. The Department received responses from Chang Chun, DuPont and Perry in August 1997. We issued supplemental questionnaires to these companies in October 1997. Responses to these questionnaires were received in November 1997.

Although we initiated this review on three respondents, as a result of facts examined during the course of the review, we are now covering only two respondents, Chang Chun and DuPont (see *Treatment of Sales of Tolled Merchandise* section of the notice below).

On October 24, 1997, the petitioner requested that we find DuPont and Perry to be affiliated with Chang Chun. Further, the petitioner argued that for purposes of calculating a dumping margin, DuPont and Perry should be collapsed with Chang Chun. Alternatively, the petitioner argued that if the Department does not collapse DuPont and Perry with Chang Chun, the Department must consider evidence which demonstrates that DuPont's and Perry's sales to their respective third-country markets during the POR were made at prices below the cost of production.

With regard to affiliation, we do not find that either Perry or DuPont is affiliated with Chang Chun (see *Treatment of Sales of Tolled Merchandise* section of the notice below for further discussion.) With respect to the petitioner's allegation of sales below the cost of production against Perry, we note that because the Department has determined that Chang Chun, and not Perry, is the producer of the tolled PVA imported by Perry under the tolling agreement with Chang Chun, the issue of whether Perry's third-country market sale was below its cost of production is moot for purposes of our analysis. With regard to Dupont, based on our analysis of the petitioner's allegation, we determine that there are reasonable grounds to believe or suspect that DuPont sold PVA to Australia at prices which were below COP (see Memorandum from Team to Office Director, dated January 30, 1998). Accordingly, we are incorporating a sales-below-the-cost-of-production analysis for DuPont in our preliminary margin calculation.

Scope of Review

The product covered by this review is polyvinyl alcohol ("PVA"). PVA is a dry, white to cream-colored, water-soluble synthetic polymer. Excluded from this review are PVAs covalently bonded with acetoacetylate, carboxylic acid, or sulfonic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, and PVAs covalently bonded with silane uniformly present on all polymer chains in a concentration equal to or greater than one-tenth of one mole percent. PVA in fiber form is not included in the scope of this review.

The merchandise under review is currently classifiable under subheading 3905.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope is dispositive.

Treatment of Sales of Tolled Merchandise

DuPont and Perry sold in the U.S. and third-country markets subject merchandise tolled by the Taiwan producer, Chang Chun. Both DuPont and Perry claim that they are the manufacturer of the tolled merchandise under the Department's newly articulated treatment of subcontractors in tolling arrangements. See 19 CFR 353.401(h). Accordingly, each company claims that it is entitled to its own dumping rate.

Under section 351.401(h) of the new regulations, which, although not legally in effect for this administrative review, are, at the time of this request for review, an expression of the Department's practice, the Department will not consider a toller or subcontractor to be a manufacturer or producer where the toller or subcontractor does not acquire ownership of the finished product and does not control the relevant sale of the subject merchandise and the foreign like product. See also Antidumping Duties; Countervailing Duties; Final Rule, 62 FR 27296, 27411 (legally effective only for segments of the proceeding initiated based on requests filed after June 18, 1997, but nevertheless a restatement of the Department's practice).

In determining whether a company that uses a subcontractor in a tolling arrangement is a producer under 351.401(h), we will look at all relevant facts surrounding a tolling agreement.

DuPont claims that under the tolling arrangement with Chang Chun, DuPont is the producer of the PVA at issue. DuPont is a chemical producer. It produces the main input, vinyl acetate monomer ("VAM"), which it then ships to Taiwan. Under contract with Chang Chun, the VAM is then converted into subject merchandise, after which DuPont exports the PVA back to the United States and to third-country markets. DuPont has had a tolling agreement with Chang Chun since prior to the original less-than-fair-value ("LTFV") investigation of PVA.

Based on this evidence, we determine that DuPont is the manufacturer of the tolled merchandise, and hence the appropriate respondent.

Perry has asserted that it is the producer of the PVA it imported from Taiwan during the period covered by this review, claiming it meets the requirements set out in 351.401(h) of the Department's new regulations. However, based on a review of the facts, we preliminarily determine that the tolling arrangement between Perry and Chang Chun does not transform Perry into the producer of the PVA at issue.

Perry has been an importer and reseller of PVA produced and exported by Chang Chun since 1978. At no time has Perry been in the business of producing or manufacturing PVA or any other chemical. Nor has Perry, prior to the tolling agreement with Chang Chun, been in the business of subcontracting any kind of chemical production or processing. Additionally, Perry does not have any production facilities. (See January 30, 1998, Perry Verification Report at page 8.)

After the conclusion of the LTFV investigation in 1996, when Chang Chun was found to be dumping at an estimated rate of 19.21 percent, Perry decided to pursue a tolling arrangement. Perry then negotiated the tolling agreement with Chang Chun, which resulted in the agreement in effect during this review. Perry began purchasing VAM, the main input in producing PVA, through a U.S. trading company. The trading company, in turn, purchased the VAM from a Taiwan producer of VAM affiliated with Chang Chun, a fact known to Perry. (See Verification Report at page 8.) Thus, both the primary input and the final product are produced by Chang Chun and its affiliate.

Based on these facts, we find that Perry is not the producer of the PVA it imports into the United States. Prior to the tolling agreement, Perry had never, as part of its normal business practice, been engaged in any research and development ("R&D"), production, processing or subcontracting of production. Moreover, there is no evidence that suggests that Perry's decision to enter into a tolling arrangement with Chang Chun was for the purpose of expanding its operations to begin producing PVA or any other chemical. To the contrary, after the tolling agreement, Perry's normal course of conducting business has not substantively changed; it remains for all intents and purposes an importer and reseller. The only change resulting from the tolling arrangement is that now Perry makes two payments to Chang Chun for Chang Chun's PVA—one for the VAM and one for the conversion of VAM into PVA. This minor change in the contractual relationship between Perry and Chang Chun is insufficient to conclude that Perry has moved from reselling to producing.

The facts presented in this review demonstrate that Perry's circumstance is fundamentally different from that of DuPont. While DuPont is a chemical producer in its own right with substantial production and R&D facilities, Perry has no production or R&D facilities. DuPont has had a tolling agreement with Chang Chun for several years before the antidumping duty order on PVA from Taiwan was issued, while Perry entered into its contract with Chang Chun after the LFTV investigation. DuPont produces the VAM which it exports to Taiwan where Chang Chun processes it into PVA in accordance with DuPont's instructions; Perry purchased VAM produced by an affiliate of Chang Chun. Based on these facts, we find that DuPont is the producer of Taiwan PVA, through a subcontract with Chang Chun, and Perry is not a producer of subject merchandise. See Chrome-Plated Lug Nuts From Taiwan, 56 FR 36130, 131 (1991).

Because we have preliminarily determined that Perry is not a producer of PVA, Perry is treated in this review as an importer and reseller. Chang Chun is the producer and original seller. Because Chang Chun had knowledge that the PVA it sold to Perry was for export to the United States, we have determined the export price based on the sale from Chang Chun to Perry. Normal value was determined using Chang Chun's home market price or constructed value.

In considering a request from Perry for a new shipper review, (November 27, 1996), the Department determined that Perry was not a "new shipper" because it was affiliated with Chang Chun through its tolling contract. In this review, we have reexamined this issue and have preliminarily determined that neither Perry nor DuPont is affiliated with Chang Chun. The tolling contracts do not establish legal or operational control over Chang Chun within the meaning of section 771(33)(G) of the Act. Rather, the tolling agreements set out contractual obligations under which Chang Chun has agreed to produce PVA for Perry and DuPont at the specified grades in specific quantities at specified times. Such agreements do not grant Perry or DuPont control over the manner in which Chang Chun operates (*e.g.*, Perry and DuPont have no ability to direct or restrain financial or operational decisions such as which suppliers Chang Chun must buy from, prices Chang Chun will charge or what other customers Chang Chun will serve). Therefore, it cannot be said that, based solely on the tolling agreements, Perry or DuPont is affiliated with Chang Chun.

Verification

As provided in Section 782(i) of the Act, we verified information provided by the respondents. We used standard verification procedures, including on-site inspection of the respondents' facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Based on verification, we made certain changes to the data in the sales listings submitted by the respondents used to calculate the preliminary margins (see Calculation Memorandum to File dated February 2, 1997). Our verification results are outlined in the verification reports placed on file in the Central

Records Unit (CRU) in room B–099 of the Main Commerce Building.

Fair Value Comparisons

To determine whether sales of the subject merchandise by the respondents to the United States were made at below normal value, we compared, where appropriate, the export ("EP") and constructed export price ("CEP") to the normal value ("NV") as described below. In accordance with section 777A(d)(2) of the Act, we compared, where appropriate, the EPs and CEPs of individual transactions to the monthly weighted-average price of sales of the foreign like product.

Export Price and Constructed Export Price

For the price to the United States, we used EP or CEP as defined in sections 772(a) and 772(b) of the Act, as appropriate.

We made company-specific adjustments as follows:

Chang Chun

In accordance with sections 772(a) and (c) of the Act, we calculated an EP for all of Chang Chun's sales, since the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation, and CEP was not otherwise warranted based on the facts of record. We calculated EP based on the packed CIF price to unaffiliated purchasers in, or for exportation to, the United States. We made deductions from the starting price for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included domestic inland freight, foreign brokerage and handling, international freight, and marine insurance.

DuPont

We calculated EP for some of DuPont's sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation. We calculated CEP for the remaining sales of merchandise, which were made in the United States after importation.

We based EP and CEP on packed FOB or delivered prices to unaffiliated purchasers in the United States. As appropriate, we made deductions for discounts and rebates. We also made deductions, where appropriate, for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included U.S. brokerage and handling expenses, U.S. Customs duties (which include harbor maintenance and merchandise processing fees), and U.S. inland freight expenses (freight from port to warehouse and freight from warehouse to the customer).

In accordance with section 772(d)(1) of the Act, we deducted from CEP selling expenses associated with DuPont's economic activities occurring in the United States, including direct selling expenses and indirect selling expenses. We also deducted from CEP an amount for profit and further manufacturing costs in accordance with section 772(d)(3) and section 772(d)(2) of the Act.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1) of the Act. For Chang Chun, we determined that the quantity of foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States because Chang Chun had sales in its home market which were greater than five percent of its sales in the U.S. market. Therefore, in accordance with section 773(a)(1) of the Act, we based NV on sales in Taiwan.

For DuPont, in accordance with section 773(a)(1) of the Act, and consistent with our practice, we based NV on the prices at which the foreign like products were first sold for consumption in the respondent's largest third-country market (*i.e.*, Australia) because DuPont did not have sales of foreign like product in the exporting country during the POR and because Australia was a viable market with respect to DuPont's sales of PVA.

We made company-specific adjustments as follows:

Chang Chun

We calculated NV based on packed, FOB or delivered prices to unaffiliated purchasers in Taiwan. We made adjustments for differences in packing in accordance with section 773(a)(6)(A) of the Act. We also made adjustments, where appropriate, for movement expenses consistent with section 773(a)(6)(B) of the Act; these included inland freight from plant to customer. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in circumstances of sale ("COS") in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. We made COS adjustments by deducting direct selling expenses incurred for home market sales (*i.e.*, credit expenses) and adding U.S. direct selling expenses (*i.e.*, credit expenses and bank charges).

DuPont

We calculated NV based on packed delivered prices to unaffiliated purchasers in Australia. We made adjustments for movement expenses (*i.e.*, brokerage and handling fees) consistent with section 773(a)(6)(B) of the Act. We disallowed DuPont's claim for an inland freight expense from Australian port to warehouse (INLFPWT) because the company failed to provide support documentation for the claimed amount at verification. In addition, we made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act, as well as for differences in COS in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 353.56. We made COS adjustments by deducting direct selling expenses incurred for third-country market sales and adding U.S. direct selling expenses, where appropriate. Since DuPont was unable to separate packing expenses from its reported tolling costs, we made no adjustment for a difference in packing expenses. As discussed below in the *Level of Trade* section, we allowed a CEP offset for comparisons made at different levels of trade. To calculate the CEP offset, we deducted from NV the third-country market indirect selling expenses, capped by the amount of the indirect selling expenses deducted in calculating the CEP under section 772(d)(1)(D) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade ("LOT") as the EP or CEP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on constructed value, that of the sales from which we derive selling, general and administrative expenses and profit. For EP, the LOT is also the level of the starting-price sale, which is usually from exporter to importer. For CEP, it is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP or CEP, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and

the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP offset provision). See, Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

With respect to Chang Chun, Chang Chun reported one channel of distribution for its U.S. and home market sales. Based on our analysis of the selling functions, we found that the selling activities in both the home market and the United States were not different. Therefore, we have found that sales in both markets are at the same LOT and consequently no LOT adjustment is warranted.

With respect to DuPont, DuPont reported one customer category and one channel of distribution for its third-country market sales. For its sales to the United States, it reported three customer categories and three channels of distribution corresponding to each customer category. Based on our analysis, we found that the three U.S. channels of distribution did not differ with respect to selling activities. Similar services, such as freight and delivery, inventory maintenance and sales support activities, were offered to all or some portion of customers in each channel. Based on this analysis, we find that the three U.S. channels of distribution comprise a single level of trade.

DuPont reported both EP and CEP sales in the U.S. market. We noted that EP sales involved basically the same selling functions associated with the third-country market sales. Therefore, based upon this information, we determined that the level of trade for all EP sales is the same as that of the third-country sales, and thus no LOT adjustment is warranted.

For CEP sales, based on our analysis, after the section 772(d) deductions, we find that there are no selling activities reflected in the CEP price, as the CEP is exclusive of all selling expenses. In contrast, the NV sales prices include the indirect selling expenses attributable to selling activities such as sales support functions. Accordingly, we have concluded that CEP is at a different level of trade from the third-country market level of trade.

We then examined whether a LOT adjustment or CEP offset may be appropriate. In this case, DuPont only sold at one LOT in the third-country market; therefore, there is no information available to determine a LOT adjustment between LOTs with respect to the foreign like product. Further, we do not have information which would allow us to examine pricing patterns based on respondent's sales of other products, and there are no other respondents or other record information on which such an analysis could be based. Accordingly, because the data available do not provide an appropriate basis for making a LOT adjustment, but the LOT in the third-country is at a more advanced stage of distribution than the LOT of the CEP, we made a CEP offset adjustment in accordance with section 773(a)(7)(B) of the Act.

Cost of Production Analysis

As stated above, based on a timely allegation filed by the petitioner, the Department initiated a cost of production investigation of DuPont to determine whether sales were made at prices below the COP. For Chang Chun, because we disregarded sales below the COP in the last completed segment of the proceeding (*i.e.*, the less-than-fair-value investigation), we had reasonable grounds to believe or suspect that sales of the foreign product under consideration for the determination of NV in this review may have been made at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by Chang Chun in the home market.

We conducted the COP analysis described below.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP, by grade, based on the sum of the cost of materials, fabrication and general expenses, and packing costs. For Chang Chun, we relied on the submitted COPs.

Chang Chun purchased a major input (*i.e.*, VAM) for PVA from an affiliated party. Section 773(f)(3) of the Act indicates that, if transactions between affiliated parties involve a major input, then the Department may value the major input based on the COP if the cost is greater than the amount (higher of transfer price or market price) that would be determined under section 773(f)(2). Section 773(f)(3) applies if the Department "has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the COP of such input." The Department generally finds that such "reasonable grounds" exist where it has initiated a COP investigation of the subject merchandise.

Because a COP investigation is being conducted in this case, the Department requested in its Section D questionnaire that Chang Chun provide cost of production information for VAM. That cost information was provided by Chang Chun in its Section D response. For purposes of our analysis, we used the per-unit costs as reported by Chang Chun, which included the cost of VAM based on the highest of the transfer price, the market price, or its affiliate's cost of production.

For DuPont, we calculated the weighted-average COP based on the sum of its cost of producing VAM and the tolling fee paid to Chang Chun and SG&A expenses. We recalculated DuPont's general and administrative expenses based on verification findings. See Verification Report at page 18.

B. Test of Home Market and Third-Country Comparison Market Sales Prices

We compared the weighted-average COP for each respondent, adjusted where appropriate, to the comparison market sales of the foreign like product as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. On a grade-specific basis, we compared the revised COP to the comparison market prices, less any applicable movement charges, discounts, rebates, commissions and other direct and indirect selling expenses.

C. Results of the COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of a respondent's sales of a given product were made at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product were made at prices below the COP, we disregarded the below-cost sales because such sales were found to be made within an

extended period of time in "substantial quantities" in accordance with sections 773(b)(2)(B) and (C) of the Act, and because the below cost sales of the product were at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Where all contemporaneous sales of a specific product were made at prices below the COP, we calculated NV based on CV, in accordance with section 773(a)(4) of the Act.

For both Chang Chun and DuPont, we did not find that comparison market sales of PVA products were made at below COP prices within the POR.

Constructed Value

For DuPont's PVA products for which we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product, we compared export prices to CV.

On January 8, 1998, the Court of Appeals for the Federal Circuit issued a decision in *Cemex* v. *United States*, 1998 WL 3626 (Fed Cir.). In that case, based on the pre-URAA version of the Act, the Court discussed the appropriateness of using CV as the basis for foreign market value when the Department finds home market sales to be outside the ordinary course of trade. This issue was not raised by any party in this review. However, the URAA amended the definition of sales outside the "ordinary course of trade" to include sales below cost. See Section 771(15) of the Act. Because the Court's decision was issued so close to the deadline for completing this preliminary results, we have not had sufficient time to evaluate and apply (if appropriate and if there are adequate facts on the record) the decision to the facts of this post-URAA review. For these reasons, we have determined to continue to apply our policy regarding the use of CV when we have disregarded below-cost sales from the calculation of NV; however, we invite interested parties to comment, in their case briefs, on the applicability of the Cemex decision to this review.

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the COM of the product sold in the United States, plus amounts for third-country comparison market SG&A expenses, and profit and U.S. packing costs. We calculated CV based on the methodology described in the "Calculation of COP" section of this notice, above, plus an amount for profit. In accordance with section 773(e)(2)(A), we used the actual amounts incurred and realized by DuPont in connection with the production and sale of the foreign like product, in the ordinary course of trade, for consumption in the foreign country to calculate SG&A expenses and profit.

For price-to-CV comparisons, we made adjustments to CV in accordance with section 773(a)(8) of the Act and 19 C.F.R. 353.56 for COS differences. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on third-country market sales and adding U.S. direct selling expenses. For comparisons to CEP, we made deductions for direct selling expenses incurred on third-country market sales.

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates published by the Federal Reserve in effect on the dates of the U.S. sales. Section 773A(a) of the Act directs the Department to use a daily exchange rate in effect on the date of sale of subject merchandise in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent (For a detailed explanation, see Policy Bulletin 96–1: Currency Conversions, 61 FR 9434, March 8, 1996). The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following margin exists for the period May 15, 1996, through April 30, 1997:

Manufacturer/exporter	Margin (percent)
Chang Chun Petrochemical Corporation	0.55
E.I. du Pont de Nemours & Co	.54
Perry Chemical Corporation *	

* We did not calculate a dumping margin for Perry because we preliminarily determined that Perry is not the producer of subject merchandise it imported into the United States during the POR (see *Treatment of Sales of Tolled Merchandise* section of the notice above).

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication or the first business day thereafter.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties and rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 30 days and 37 days, respectively, from the date of publication of these preliminary results. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument.

The Department will subsequently issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

The Department shall determine and the Customs Service shall assess antidumping duties on all appropriate entries. The Department will issue appropriate appraisement instructions directly to the Customs Service upon completion of this review. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties. For Chang Chun, for duty assessment purposes, we calculated an importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total value of subject merchandise entered during the POR for each importer. In order to estimate the entered value, we subtracted international movement expenses from the gross sales value. For DuPont, we calculated an assessment rate by aggregating the dumping margins calculated for all U.S. sales and dividing this amount by the total value of subject merchandise entered during the POR.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this antidumping duty review for all shipments of PVA from Taiwan, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a) of the Tariff Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this review; (2) for exporters not covered in this review, but covered in the LTFV investigation or prior reviews, the cash deposit rate will continue to be the company-specific rate from the LTFV investigation or the prior review; (3) if the exporter is not a firm

covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.21 percent, the "All Others" rate made effective by the LTFV investigation. These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) of the Act and 19 CFR 353.22(5).

Dated: February 2, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3210 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings, and Parts Thereof From the People's Republic of China: Notice of Extension of Time Limit for Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary results of the tenth review of the antidumping order on tapered roller bearings from the People's Republic of China. The period of review is June 1, 1996 to May 31, 1997. This extension is made pursuant to Section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Craig Matney, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0189 or (202) 482–0588, respectively.

SUPPLEMENTAL INFORMATION: Because it is not practicable to complete this review within the original time limit mandated by section 751(a)(3)(A) of the Tariff Act of 1930, as amended (*i.e.*, March 2, 1998), the Department of Commerce (the Department) is extending the time limit for completion of the preliminary determination until June 30, 1998. See January 26, 1998 Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement Richard W. Moreland to Assistant Secretary for Import Administration Robert S. LaRussa on file in the public file of the Central Records Unit, B–099 of the Department. This extension also applies to the new shipper review of this case which is aligned with this administrative review (see 62 FR 43514).

Dated: February 3, 1998.

Richard W. Moreland,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 98–3209 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–502]

Certain Welded Carbon Steel Standard Pipes and Tubes From India; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests from interested parties, the Department of Commerce is conducting an administrative review of the antidumping duty order on certain welded carbon steel standard pipes and tubes from India. The review covers two manufacturers/exporters of the subject merchandise. The period of review is May 1, 1996, through April 30, 1997.

We have preliminarily determined that sales have been made below normal value. If these preliminary results are adopted in the final results of this administrative review, we will instruct the Customs Service to assess antidumping duties based on the difference between the constructed export price and normal value.

Interested parties are invited to comment on these preliminary results. Parties that submit case briefs in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Davina Hashmi at (202) 482–5760 or Robin Gray at (202) 482–4023, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations, codified at 19 CFR Part 353 (April 1997).

Background

On May 2, 1997, the Department of Commerce (the Department) published in the **Federal Register** an opportunity to request an administrative review of this antidumping duty order for the period May 1, 1996, through April 30, 1997. See 62 FR 24082. On May 30, 1997, we received a timely request for review from a respondent, Rajinder Pipes Ltd. On May 30, 1997, the Department also received from the petitioners, the Wheatland Tube Company, Allied Tube and Conduit, and the Laclede Steel Company, a timely request for review of both Rajinder and Lloyd's Metals & Engineers Ltd. On June 19, 1997, we initiated this administrative review.

Scope of Review

The products covered by this review include circular welded non-alloy steel pipes and tubes, of circular cross-section, with an outside diameter of 0.372 inch or more but not more than 406.4 millimeters (16 inches) in outside diameter, regardless of wall thickness, surface finish (black, galvanized, or painted), or end finish (plain end, bevelled end, threaded, or threaded and coupled). These pipes and tubes are

generally known as standard pipe, though they may also be called structural or mechanical tubing in certain applications. Standard pipes and tubes are intended for the low-pressure conveyance of water, steam, natural gas, air and other liquids and gases in plumbing and heating systems, air-conditioner units, automatic sprinkler systems, and other related uses. Standard pipe may also be used for light load-bearing and mechanical applications, such as for fence tubing, and for protection of electrical wiring, such as conduit shells.

The scope is not limited to standard pipe and fence tubing or those types of mechanical and structural pipe that are used in standard pipe applications. All carbon-steel pipes and tubes within the physical description outlined above are included in the scope of this order, except for line pipe, oil-country tubular goods, boiler tubing, cold-drawn or cold-rolled mechanical tubing, pipe and tube hollows for redraws, finished scaffolding, and finished rigid conduit.

Imports of the products covered by this review are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. Although the HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by Rajinder using standard verification procedures, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. We verified Rajinder's responses from December 16 to December 19, 1997, at its factory in Kanpur, India. Our verification results are outlined in the verification report (January 20, 1998), public versions of which are available in the Central Records Unit of the Department, room B–099.

No Shipments

Lloyd's reported no shipments or sales subject to this review and the Department has confirmed these facts with the Customs Service. Because Lloyd's did not make any sales or shipments to the United States during the instant review period, we have not calculated an antidumping duty margin for the preliminary results of review with respect to this company.

Constructed Export Price

We based our margin calculation on constructed export price (CEP) as defined in section 772(b) of the Tariff Act because the subject merchandise was first sold in the United States to a person not affiliated with Rajinder after importation by Rajinder International Inc. (RII), a seller affiliated with Rajinder.

We calculated CEP based on ex-warehouse prices from RII to the unaffiliated purchasers in the United States (the starting price). We made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Tariff Act. We made additional adjustments to the starting price by deducting selling expenses associated with economic activities occurring in the United States, including commissions, direct selling expenses, expenses assumed on behalf of the buyer, and U.S. indirect selling expenses. In accordance with section 772(d)(3) of the Tariff Act, we deducted from the price an amount for profit to arrive at the CEP.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating normal value (NV), we compared Rajinder's volume of home-market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Tariff Act. Since Rajinder's aggregate volume of home-market sales of the foreign like product was greater than five percent of its aggregate volume of its U.S. sales of the subject merchandise, we determined that the home market was viable. Therefore, in accordance with section 773(a)(1)(B)(i), we based NV on the prices at which the foreign like products were first sold for consumption in the exporting country.

Home-market prices were based on the packed, ex-factory or delivered prices of the foreign like product to unaffiliated purchasers in the home market. Where applicable, we made adjustments for movement expenses in accordance with section 773(a)(6)(B) of the Tariff Act. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Tariff Act and for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Tariff Act. We made COS adjustments by deducting direct selling expenses. We also made adjustments, where applicable, for home market indirect selling expenses to offset U.S. commissions.

We based NV on the price at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities, in the ordinary course of trade and at the same level of trade as the CEP, to the extent practicable in accordance with section 773(a)(1)(B)(i) of the Tariff Act.

No other adjustments were claimed and/or allowed.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act, to the extent practicable, we calculate NV based on sales in the comparison market at the same level of trade as the U.S. sale. The NV level of trade is that of the starting-price sales in the comparison market.

To determine whether NV sales are at a different level of trade than that of the U.S. sale, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different level of trade, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we make a level-of-trade adjustment under section 773(a)(7)(A) of the Act. See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa, 62 FR 61731 (November 19, 1997).

In implementing these principles in this review, we obtained information from Rajinder about the marketing stages involved in the reported U.S. and home market sales, including a description of the selling activities performed by Rajinder for each channel of distribution. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

Rajinder reported two channels of distribution in the home market: (1) sales to government agencies, OEMs, and end-users (Channel One); and (2) sales to local distributors and trading companies (Channel Two). Based on the selling functions that occur between the two home-market channels of distribution and other factors, such as the point in the chain of distribution

where the relevant selling expenses occurred, we determined that the two home-market channels of distribution constitute two different levels of trade. See Memorandum from Analyst to File: Preliminary Results of 1996–97 Administrative Review of Certain Welded Carbon Steel Pipes and Tubes from India, (February 2, 1998).

Rajinder reported only CEP sales in the U.S. market. The CEP sales were based on sales from the exporter to Rajinder's U.S. affiliate, a local distributor. Because the CEP sales were made through one channel of distribution, we determined that sales through this channel constitute a single level of trade.

In addition, we found that, based on the selling functions between and customer categories of the CEP channel and Channel Two in the home market, sales to Channel Two were made at the same level as the sales to the United States. See Memorandum from Analyst to File: Preliminary Results of 1996–97 Administrative Review of Certain Welded Carbon Steel Pipes and Tubes from India (February 2, 1998). We therefore matched the CEP sales to home-market sales made to Channel Two, to the extent possible. Where we found no match at the Channel Two level of trade, we matched at the Channel One level of trade and made a level-of-trade adjustment because the difference in levels of trade affected price comparability.

We determined whether there was a pattern of consistent price differences between the different levels of trade in the home market by comparing, for each model sold at both levels, the average net price of sales made in the ordinary course of trade at the two levels of trade. Because the average prices are higher at one of the levels of trade for a preponderance of the models and sales quantities, we consider this to demonstrate a pattern of consistent price differences. Therefore, when comparing sales at different levels of trade, we adjusted NV downward by the average percentage difference. See Final Results of Antidumping Administrative Review: Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Singapore, and the United Kingdom, 62 FR 2081, 2105 (January 15, 1997).

Currency Conversion

For purposes of the preliminary results, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. Section 773A(a) of the Tariff Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a "fluctuation." In accordance with our practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine a fluctuation exists, we substitute the benchmark for the daily rate. See Policy Bulletin 96–1: Currency Conversions, 61 FR 9434 (March 8, 1996).

Preliminary Results of the Review

As a result of our comparisons of CEP with NV, we preliminarily determine that the following weighted-average dumping margins exist for the period May 1, 1996 through April 30, 1997:

Manufacturer/exporter	Margin
Rajinder Pipes Ltd.	34.91
Lloyd's Metals & Engineers [1]	0.00

[1] This company claimed no shipments or sales subject to this review. Rate is from the last segment of the proceeding in which the firm had shipments/sales.

Parties to this proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of the date of publication of this notice. A hearing, if requested, will be held 44 days from the date of publication of this notice at the main Commerce Department building.

Issues raised in hearings will be limited to those raised in the respective case briefs and rebuttal briefs. Case briefs from interested parties are due within 30 days of publication of this notice. Rebuttal briefs, limited to the issues raised in the respective case briefs, may be submitted not later than 37 days of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will subsequently publish the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or hearing. The Department will issue final results of this review within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For duty-assessment purposes, we calculated, on an importer-specific basis, an assessment rate by aggregating the dumping margins calculated for all U.S. sales and dividing the amount by the total entered value of subject merchandise sold during the period of review.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed company is the rate established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be 7.08 percent, the "All Others" rate made effective by the final determination of sales at LTFV, as explained in the 1995/96 new shipper review of this order. See Certain Welded Carbon Standard Steel Pipes and Tubes From India; Final Results of New Shippers Antidumping Duty Administrative Review, 62 FR 47632, 47644 (September 10, 1997).

These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act and 19 CFR 353.22(h).

Dated: February 2, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3213 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–401–056]

Viscose Rayon Staple Fiber From Sweden; Preliminary Results of Countervailing Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of preliminary results of countervailing duty administrative review.

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden for the period January 1, 1996, through December 31, 1996. For information on the net subsidy for Svenska Rayon AB, as well as for all non-reviewed companies, please see the *Preliminary Results of Review* section of this notice. If the final results remain the same as the preliminary results of this administrative review, we will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Preliminary Results of Review* section of this notice. Interested parties are invited to comment on these preliminary results. See *Public Comment* section of this notice.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Eric Greynolds, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3692 or (202) 482–6071.

SUPPLEMENTARY INFORMATION:

Background

On May 15, 1979, the Department published in the **Federal Register** (44 FR 28319) the countervailing duty order on viscose rayon staple fiber from Sweden. On May 2, 1997, the Department of Commerce (the Department) published a notice of "Opportunity to Request Administrative Review" (62 FR 24081) of this countervailing duty order. We received timely requests for review from Courtaulds Fibers Inc. and Lenzing Fibers Corporation (petitioners) and from Svenska Rayon AB (Svenska). We initiated the review covering the period January 1, 1996, through December 31, 1996, on June 19, 1997 (62 FR 33395).

In accordance with 19 CFR 355.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Svenska. This review also covers six programs.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to 19 CFR 355 (1997).

Scope of the Review

Imports covered by this review are shipments from Sweden of regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is classifiable under item number 5504.10.00 of the Harmonized Tariff Schedule (HTS). The HTS item is provided for convenience and customs purposes. The written description of the scope of the proceeding remains dispositive.

Facts Available

Section 776(a)(2) of the Act requires the Department to use facts available if "an interested party or any other person * * * withholds information that has been requested by the administering authority * * * under this title." The facts on the record show that the Government of Sweden (GOS) did not comply with the Department's requests for information required to conduct a specificity analysis. In the original questionnaire, the Department requested information regarding eligibility for and actual use of the benefits provided under the Recruitment Subsidy Program, such as: (1) The enabling legislation, (2) a translated blank copy of the application form submitted to receive benefits under the program or a description of the procedures by which an application is analyzed and eventually approved or disapproved, (3) a list indicating the number of companies, and number and type of the industries, which have received benefits under the program in the year the provision of benefits was approved and each of the preceding three years, (4) the number of companies that applied for benefits under the program in the year the benefit was approved and each of the preceding three years, and (5) the number of applicants that have been approved or rejected in the year the benefit was approved and each of the preceding three years. The GOS responded that the detailed and relevant description of the program was provided in the 1995 review, and that the information was still relevant because no amendments were made regarding the rules and conditions of the program. The GOS also provided an amount for the Recruitment Subsidy payment made to Svenska but, the GOS did not provide to the Department any information pertaining to the recipients of benefits under the program during the POR or the two preceding years.

The Department's supplemental questionnaire again requested specificity information from the GOS. The GOS responded that it is still not possible for them to obtain data on the distribution of the Recruitment Subsidy Program by industry.

The Department placed the enabling legislation on the record of the current review, relying on the statement by the GOS that no amendments were made in 1996. However, with respect to *de facto* specificity, the record does not contain any information at all on the recipients of benefits under this program during the period of review and in the prior two years. While we understand that data on distribution of benefits by industry may not be readily available, in this review, the GOS did not provide any available documentation, such as a translated copy of the application form that may have helped explain to the Department why the information being requested could not be provided and might have indicated the availability of some information that could be useful in assessing specificity. In addition, the GOS elected not to attempt to collect whatever data was available.

Section 776(b) of the Act permits the administrative authority to use an inference that is adverse to the interests of an interested party if that party has "failed to cooperate by not acting to the best of its ability to comply with a request for information." Such an adverse inference may include reliance on information derived from (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753 regarding the country under consideration, or (4) any other information placed on the record.

Because respondents were aware of the requested information but did not comply with the Department's request for such information, we find that respondents failed to cooperate by not acting to the best of their ability to comply with the Department's request. Therefore, we are using adverse inferences in accordance with section 776(b) of the Act. The adverse inference is a finding that the Recruitment Subsidy program is specific under section 771(5A)(D)(iii) of the Act, and that the amount of the benefit received by Svenska constitutes a financial contribution which benefits the recipient. As such, this aid is countervailable.

Analysis of Programs

I. Program Preliminarily Determined to Confer Subsidies

Recruitment Subsidy Program

The purpose of the Recruitment Subsidy Program, which commenced in 1984, is to increase employment among long-term unemployed persons. Aid is provided by the GOS to employers for a period of six months through grants covering a maximum of 50 percent of monthly wage costs for the person hired up to a maximum of 7,000 Swedish Kroner per month. Under certain conditions, the time period for a company to receive aid under this program can be extended to 12 months.

The legislation states that this program is available to all employers, except to state employers. Applications for aid are submitted to the local GOS employment office which decides whether aid should be granted. Hence, depending on circumstances in each case, the local employment offices can approve aid at a level up to 50 percent of wage costs and for a period up to 12 months.

We examined the specificity of the Recruitment Subsidy Program in accordance with section 771(5A)(D) of the Act. Because the enabling legislation does not expressly limit access to the subsidy to an enterprise or industry, or group thereof, we examined whether the program is *de facto* specific within the meaning of section 771(5A)(D)(iii) of the Act.

According to 771(5A)(D)(iii), "a subsidy is *de facto* specific if one of the following factors exist: (1) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number; (2) An enterprise or industry is a predominant user of the subsidy; (3) An enterprise or industry receives a disproportionately large amount of the subsidy; or (4) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others."

During the period of review, Svenska received grants under the Recruitment Subsidy Program. The GOS provided no information on actual usage of the program by enterprise or industry nor did it identify any other information through which the Department could analyze whether the program is *de facto* specific. Accordingly, based on the facts available, we preliminarily determine that this program is *de facto* specific and, therefore, countervailable within the meaning of section 771(5A)(D)(iii). To calculate the subsidy to this company, we divided the amount of the grants the company received during the period of review by its total sales. On this basis, we preliminarily determine the subsidy to be 0.06 percent *ad valorem*.

II. Programs Preliminarily Determined To Be Not Used

We examined the following programs and preliminarily determine that the producers and/or exporters of the subject merchandise did not apply for or receive benefits under these programs during the period of review:

A. Grants for Temporary Employment for Public Works
B. Regional Development Grants
C. Transportation Grants
D. Location-of-Industry Loans

III. Program Preliminarily Determined To Be Terminated

Manpower Reduction Grants

We examined the Manpower Reduction Grants program and preliminarily determine it to be terminated because the GOS provided documentation that no government funds have been allocated to this program since 1982.

Preliminary Results of Review

In accordance with 19 CFR 355.22(c)(4)(ii), we calculated an individual subsidy rate for each producer/exporter subject to this administrative review. For the period January 1, 1996, through December 31, 1996, we preliminarily determine the net subsidy for Svenska to be 0.06 percent *ad valorem*.

As provided for in the Act, any rate less than 0.5 percent *ad valorem* in an administrative review is *de minimis*. Accordingly, if the final results of this review remain the same as these preliminary results, the Department intends to instruct Customs to liquidate, without regard to countervailing duties, shipments of the subject merchandise from Svenska exported on or after January 1, 1996, and on or before December 31, 1996. Also, the cash deposits required for this company will be zero.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in section 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. See 19 CFR 355.22(a). Pursuant to 19 CFR 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected, at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a request for a review of that company. See *Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR 353.22(e), the antidumping regulation on automatic assessment, which is identical to 19 CFR 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding, conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. See Viscose Rayon Staple Fiber from Sweden; Final Results of Countervailing Duty Administrative Review, 59 FR 66940 (August 18, 1997). These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is requested. In addition, for the period January 1, 1996, through December 31, 1996, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

Public Comment

Parties to the proceeding may request disclosure of the calculation methodology and interested parties may request a hearing not later than 10 days after the date of publication of this notice. Interested parties may submit written arguments in case briefs on these preliminary results within 30 days of the date of publication. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted seven days after the time limit for filing the case brief. Parties who submit arguments in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. Any hearing, if requested, will be held seven days after the scheduled date for submission of rebuttal briefs. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 355.38.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 355.38, are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: February 2, 1998.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 98–3199 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020298D]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Council) and its advisory entities will hold public meetings.

DATES: The meetings will be held on March 9–13, 1998. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Clarion Hotel, 401 East Millbrae Avenue, Millbrae, CA 94030; telephone: (415) 692–6363.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The Council meeting will begin on Tuesday, March 10, at 8 a.m. with an open session, will reconvene on Wednesday, March 11, at 8 a.m. in open session, Thursday, March 12, at 8:30 a.m. in open session, and Friday, March 13, at 8:00 a.m. in open session. On Thursday, March 12, the Council will meet in closed session (closed to public) from 8 a.m. to 8.30 a.m. to discuss litigation and personnel matters. The Council will meet as late as necessary each day to complete its scheduled business.

The following items are on the Council agenda:

A. Call to Order
1. Opening Remarks, Introductions, Roll Call
2. Approve Agenda
3. Approve September and November 1997 Meeting Minutes
B. Salmon Management
1. Review of 1997 Fisheries and Summary of 1998 Stock Abundance Estimates
2. Estimation Procedures and Methodologies
3. Preliminary Definition of 1998 Management Options
C. Habitat Issues - Report of the Steering Group
D. Dungeness Crab Management
1. Status of Council Recommendation to Congress
2. Next Step, Depending on Congressional Response
E. Coastal Pelagic Species Management
Review of Draft Plan Amendments
F. Salmon Management (continued)
1. Oregon Coastal Natural Coho Rebuilding Analysis and Progress Report on Amendment 13 Implementation
2. Review of Draft Plan Amendments
3. Adoption of 1998 Management Options for Analysis
G. Pacific Halibut Management
1. Status of Implementation of Council Recommendations for 1998
2. Results of the International Pacific Halibut Commission Annual Meeting
3. Status of Estimate of Area 2A Bycatch
4. Proposed Incidental Catch in the Troll Salmon Fishery for 1998
H. Groundfish Management
1. Status of Federal Regulations
2. Final Provisions for 1998 Primary Fixed Gear Sablefish Season
3. Capacity Reduction Program
4. Stock Assessment Review Process for 1998
I. Highly Migratory Species Management
1. Composition of Advisory Subpanel and Request for Nominations
2. Management Coordination in the Pacific
J. Administrative and Other Matters
1. Report of the Budget Committee
2. Legislative Update
3. Appointments to Advisory Entities
4. Research and Data Needs
5. April 1998 Agenda
K. Salmon Management (continued)
1. Adopt 1998 Options for Public Review
2. Schedule of Public Hearings and Appointment of Hearing Officers

ADVISORY MEETINGS

The Salmon Technical Team will meet, as necessary, Monday through Friday, March 9–13 to address salmon management items on the Council agenda.

The Habitat Steering Group meets on Monday, March 9, at 10 a.m., to address issues and actions affecting habitat of fish species managed by the Council.

The Salmon Advisory Subpanel will convene on Monday, March 9, at 9 a.m. and will continue to meet throughout the week as necessary to address salmon management items on the Council agenda.

The Enforcement Consultants meet at 7 p.m. on Tuesday, March 10, to address enforcement issues relating to Council agenda items.

The Highly Migratory Species (HMS) Policy Committee will meet on Monday, March 9, at 3 p.m. to discuss HMS issues on the Council agenda.

The Budget Committee meets on Monday, March 9, at 1 p.m., to review the status of the 1997 and 1998 Council budgets.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Eric W. Greene at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: February 4, 1998.

Gary C. Matlock,

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

[FR Doc. 98–3195 Filed 2–6–98; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Financial Products Advisory Committee; February 25, 1998; 1:00 p.m.–4:30 p.m.

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Financial Products Advisory Committee will conduct a public meeting in the Ground Level Hearing Room at the Commission's Washington, DC headquarters located at 1155 21st Street, NW., Washington, DC 20581, on February 25, 1998, beginning at 1:00 p.m. and lasting until 4:30 p.m.

The agenda will consist of:

Agenda

Regulatory Reform

1. Introductory Remarks by Chairperson Brooksley Born.

2. Discussion by members of the Advisory Committee of the following regulatory reform topics:

A. Regulation of noncompetitive transactions executed on or subject to the rules of a contract market.

B. Futures-style margining of commodity options.

C. Denomination of customer funds and the location of depositories.

D. Account identification for eligible bunched orders.

E. Short option value charge.

3. Preliminary discussion of other potential topics.

4. Any procedural matters.

The purpose of this meeting is to solicit the views of the Committee on these agenda matters. The Advisory Committee was created by the Commodity Futures Trading Commission for the purpose of advising the Commission on issues concerning individuals and industries interested in or affected by financial markets regulated by the Commission. The purposes and objectives of the Advisory Committee are more fully set forth in the April 15, 1997 Charter of the Advisory Committee.

The meeting is open to the public. The Chairperson of the Advisory Committee, CFTC Chairperson Brooksley Born, is empowered to conduct the meeting in a fashion that will, in her judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Financial Products Advisory Committee, c/o Ms. Josiane Branch, 1155 21st Street, NW., Washington, DC 20581, before the meeting.

Issued by the Commission in Washington, D.C., on February 4, 1998.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 98–3254 Filed 2–6–98; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 98–19]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Assistance Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirement of section 155 of Public Law 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSAA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 98–19, with attached transmittal, policy justification and sensitivity of technology pages.

Dated: February 3, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5000–04–M

DEFENSE SECURITY ASSISTANCE AGENCY

WASHINGTON, DC 20301-2800

28 JAN 1998

In reply refer to:
I-56707/97

Honorable Newt Gingrich
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 98-19, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to Taipei Economic and Cultural Representative Office (TECRO) in the United States for defense articles and services estimated to cost $300 million. The informal notification (Transmittal No. 97-BK) was delivered to Congress on 9 November 1997. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

H. Diehl McKalip
Acting Director

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Attachments

Transmittal No. 98-19

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

(i) Prospective Purchaser: Taipei Economic and Cultural Representative Office (TECRO) in the United States

(ii) Total Estimated Value:

Major Defense Equipment*	$ 30 million
Other	$ 270 million
TOTAL	$ 300 million

(iii) Description of Articles or Services Offered: Three KNOX class frigates (FF 1052), weapons and ammunition to include one MK 15 PHALANX Close-In Weapons System (CIWS), one AN/SWG-1A HARPOON launcher, two sets of MK 36 MOD 5 Super Rapid Bloom Offboard Countermeasures (SRBOC) decoy launching system, 1,581 rounds of 5"/54 ammunition, and 30,000 rounds of 20mm tungsten cartridges for CIWS, and other related ammunition items, shipyard/port support services and post transfer activities relating to "cold ship" turnover of three KNOX class frigates from the U.S. Navy, U.S. Government and contractor engineering and logistics personnel support services, repair and calibration services for shipboard equipment, design/construction/upgrade of shipyard maintenance and docking facilities, publications and technical data/drawings, personnel training and training equipment, support equipment, spare and repair parts and other elements of logistics necessary to prepare the frigates for transfer to Taiwan in a "Safe to Steam" condition with all shipboard and weapon systems operational.

(iv) Military Department: Navy (SDA, TCS, and AKE)

(v) Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: none

(vi) Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached.

(vii) Date Report Delivered to Congress: 28 JAN 1998

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office (TECRO) in the United States - KNOX Class Frigates (FF 1052)

The Taipei Economic and Cultural Representative Office (TECRO) in the United States has requested a possible sale of three KNOX class frigates (FF 1052), weapons and ammunition to include one MK 15 PHALANX Close-In Weapons System (CIWS), one AN/SWG-1A HARPOON launcher, two sets of MK 36 MOD 5 Super Rapid Bloom Offboard Countermeasures (SRBOC) decoy launching system, 1,581 rounds of 5"/54 ammunition, and 30,000 rounds of 20mm tungsten cartridges for CIWS, and other related ammunition items, shipyard/port support services and post transfer activities relating to "cold ship" turnover of three KNOX class frigates from the U.S. Navy, U.S. Government and contractor engineering and logistics personnel support services, repair and calibration services for shipboard equipment, design/construction/upgrade of shipyard maintenance and docking facilities, publications and technical data/drawings, personnel training and training equipment, support equipment, spare and repair parts and other elements of logistics necessary to prepare the frigates for transfer to Taiwan in a "Safe to Steam" condition with all shipboard and weapon systems operational. The estimated cost is $300 million.

This proposed sale is consistent with United States law and policy as expressed in Public Law 96-8.

Taiwan needs the KNOX class frigates as well as the weapons and ammunition to continue its naval modernization program and enhance its Anti-Submarine Warfare (ASW) capability. Taiwan will have no difficulty absorbing these weapons and equipment into its armed forces.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

The prime reactivation efforts will take place at commercial shipyard yet to be selected. There are no offset agreements proposed to be entered into in connection with this potential sale.

U.S. Government and contractor engineering and logistics in-country personnel requirements will be determined following consultations with representatives in-country.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 98-19

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The PHALANX Close-In Weapon System MK 15 crystals which contain the operating frequencies of the weapon system are considered critical technology and are classified Confidential. The maintenance and operation publications are also classified Confidential.

2. MK 36 MOD 5 Super Rapid Bloom Offboard Countermeasures (SRBOC) decoy launching system contains Confidential components. Applicable technical and equipment documentation and manuals contains classified Confidential.

3. 5"/54 gun ammunition contains Confidential fuze components. Applicable technical and equipment documentation and manuals contains classified Confidential.

4. Weapon systems and equipment publications, technical documentation and maintenance manuals to be released with this sale are classified Confidential.

5. AN/SLQ-32(V)1 and (V)2 Countermeasures Sets contains Unclassified components. Applicable technical and equipment documentation and manuals contains classified Confidential.

6. Compromise of the foregoing technical information could result in the development of countermeasures or equivalent systems which could reduce ship system effectiveness or be used in the development of systems with similar or advanced capabilities.

7. A determination has been made that the recipient country can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 98-3160 Filed 2-6-98; 8:45 am]
BILLING CODE 5000-04-C

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Control of Military Excess/Surplus Materiel

ACTION: Notice of advisory committee meeting.

SUMMARY: The Defense Science Board Task Force on Control of Military Excess/Surplus Materiel will meet in open session on February 10–11, 1998 at Strategic Analysis, Inc., 4001 N. Fairfax Drive, Arlington, Virginia. Due to unforeseen circumstances this meeting is scheduled on short notice.

The mission of the Defense Science Board is to advise the Secretary of Defense and 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.

Persons interested in further information should call Mr. Mike Turner at (703) 693–5716 or Mr. George McVeigh at (703) 312–8662.

Dated: February 2, 1998.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 98–3159 Filed 2–6–98; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, DoD.

ACTION: Notice of a computer matching program.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between HUD and DoD that their records are being matched by computer. The record subjects are HUD delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the United States Government under programs administered by HUD so as to permit HUD to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

EFFECTIVE DATE: This action will become effective March 18, 1998, unless comments are received which would result in a contrary determination. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Acting Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Room 920, Arlington, VA 22202-4502.

FOR FURTHER INFORMATION CONTACT: Mr. Vahan Moushegian, Jr., at (703) 607-2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and HUD have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that HUD can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between HUD and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Department of Housing and Urban Development, Debt Management and Title I Operations Division, 470 L'Enfant Plaza, Suite 3115, Washington, DC 20024.

Set forth below is the notice of the establishment of a computer matching program required by paragraph 6.c. of the Office of Management and Budget Guidelines on computer matching published in the **Federal Register** on June 19, 1989 at 54 FR 25818.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on January 20, 1998, to the House Committee on Government Reform and Oversight, the Senate Committee on Governmental Affairs, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated February 8, 1996 (61 FR 6435). The matching program is subject to review by OMB and Congress and shall not become effective until that review period has elapsed.

Dated: January 26, 1998.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NOTICE OF A COMPUTER MATCHING PROGRAM BETWEEN THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND THE DEPARTMENT OF DEFENSE FOR DEBT COLLECTION

A. *PARTICIPATING AGENCIES:* Participants in this computer matching program are the Department of Housing and Urban Development (HUD) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The HUD is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *PURPOSE OF THE MATCH:* Upon the execution of this agreement, the HUD will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed or retired, who owe delinquent debts to the Federal Government under certain programs administered by HUD. These debtors are from the Title I Property Improvement Loan Program, Single Family Generic Debt program and the Departmental Claims. HUD will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982 when voluntary payment is not forthcoming. These collection efforts will include requests by HUD of the employing agency to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *AUTHORITY FOR CONDUCTING THE MATCH:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub. L. 97-365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104-134, section 31001); 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716

Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, as amended, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 138, as amended, Assistant Secretaries of Defense; section 101(1) of Executive Order 12731; 4 CFR Chapter II, Federal Claims Collection Standards (General Accounting Office - Department of Justice); 5 CFR 550.1101 - 550.1108 Collection by Offset from Indebted Government Employees (OPM); 24 CFR part 17, Administrative Claims, subpart C, §§ 17.60 and 17.125-17.140, Salary Offset Provisions (HUD) implementing 5 U.S.C. 5514(b)(1).

D. *RECORDS TO BE MATCHED:* The systems of records maintained by the respective agencies from which records will be disclosed for the purpose of this computer match are as follows:

HUD will use personal data from the record system identified as HUD/DEPT 2, entitled 'Accounting Records' last published in the **Federal Register** on November 25, 1994, at 59 FR 60651.

DOD will use personal data from the record system identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** at June 25, 1996, at 61 FR 32779.

Sections 5 and 10 of the Debt Collection Act of 1982 authorize agencies to disclose information about debtors in order to effect salary or administrative offsets. Agencies must publish routine uses pursuant to subsection (b)(3) of the Privacy Act for those systems of records from which they intend to disclose this information. Sections 5 and 10 of the Debt Collection Act will comprise the necessary authority to meet the Privacy Act's 'compatibility' condition. The systems of records described above contain an appropriate routine use disclosure between the agencies of the information proposed in the match. The routine use provisions are compatible with the purpose for which the information was collected.

E. *DESCRIPTION OF COMPUTER MATCHING PROGRAM:* HUD, as the source agency, will provide DMDC with a electronic file which contains the names of delinquent debtors in programs HUD administers. Upon receipt of the electronic file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the HUD file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of non-postal Federal employees and military members, active, and retired. Matching records ('hits'), based on the SSN, will produce the member's name, service or agency, category of employee, and current work or home address. The hits or matches will be furnished to HUD. HUD is responsible for verifying and determining that the data on the DMDC reply tape file are consistent with HUD's source file and for resolving any discrepancies or inconsistencies on an individual basis. HUD will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The electronic file provided by HUD will contain data elements of the debtor's name, SSN, internal account numbers and the total amount owed for each debtor on approximately 44,779 delinquent debtors, (42,960 in Title I, 1,665 in Generic Debt and 154 in Department Claims.

The DMDC computer database file contains approximately 10 million records of active duty and retired military members, including the Reserve and Guard, and the OPM government wide non-postal Federal civilian records of current and retired Federal employees.

DMDC will match the SSN on the HUD file by computer against the DMDC database. Matching records, hits based on SSN's will produce data elements of the member's name, SSN, service or agency, and current work or home address.

F. *INCLUSIVE DATES OF THE MATCHING PROGRAM:* This computer matching program is subject to review by Congress and the Office of Management and Budget. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired, then this computer matching program becomes effective. By agreement between HUD and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *ADDRESS FOR RECEIPT OF PUBLIC COMMENTS OR INQUIRIES:* Acting Director, Defense Privacy Office, 1941 Jefferson Davis Highway, Room 920, Arlington, VA 22202–4502.

[FR Doc. 98–2397 Filed 2–6–98; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Navy

Redesignation From Environmental Impact Statement (EIS) to Environmental Assessment (EA) for Disposal and Reuse of Surplus Property at Naval Support Activity (Formerly Naval Air Station (NAS)) Memphis, Millington, Tennessee

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice that an Environmental Assessment (EA) has been prepared, and an Environmental Impact Statement (EIS) is not required, for the disposal and reuse of surplus property at Naval Support Activity (NSA) (formerly Naval Air Station (NAS)) Memphis, Millington, Tennessee.

ADDRESSES: Requests for copies of the Review EA are to be directed to Mr. Darrell Molzan (Code 064DM), Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, SC 29419–9010, FAX (803) 820–7472.

FOR FURTHER INFORMATION CONTACT: Mr. Darrell Molzan, (803) 820–5796.

SUPPLEMENTAL INFORMATION: Pursuant to the Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy gives notice that an EA has been prepared for the disposal of NAS Memphis and the subsequent reuse of those surplus property.

A Notice of Intent (NOI) to prepare an EIS was published in **Federal Register** on June 9, 1994. A public scoping meeting for the proposed project was held on June 28, 1994, at the Baker Community Center, 7942 Church Street, Millington, Tennessee. This meeting was advertised in Millington area newspapers.

In accordance with recommendations of the 1993 Base Closure and Realignment Commission, the Navy has realigned the former NAS Memphis. As part of the realignment, air operations conducted at the former air station have been either disestablished or transferred to other naval facilities. The proposed action involves the disposal of the majority of the land, buildings, and infrastructure associated with the air operations on the northside of NSA Memphis including runways, taxi ways, hangers, etc. Approximately 1,900 acres will be declared excess. The EA will evaluate alternative reuse concepts of the property, including a "no action"

alternative, which would be retention of the property by the Navy in caretaker status. However, due to provisions found in the Base Realignment and Closure Act, selection of the "no action" alternative would be considered impractical for the Navy to implement.

Major environmental issues that will be addressed in the EA include, but are not limited to, air quality, water quality, wetlands, endangered species, cultural resources, and socioeconomic impacts of the reasonably foreseeable reuse of the property.

Federal, state and local agencies, and individuals interested in obtaining a copy of the Review EA should contact Mr. Darrell Molzan (Code 064DM), Southern Division, Naval Facilities Engineering Command, P.O. Box 190010, North Charleston, SC 29419–9010, FAX (803) 820–7472.

Dated: February 3, 1998.

Michael I. Quinn,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–3102 Filed 2–6–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Redesignation From Environmental Impact Statement (EIS) to Environmental Assessment (EA) for Disposal and Reuse of Naval Air Warfare Center, Aircraft Division, Trenton, Ewing Township, New Jersey

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy gives notice that an Environmental Assessment (EA) has been prepared, and an Environmental Impact Statement (EIS) is not required, for the disposal and reuse of Naval Air Warfare Center, Aircraft Division (NAWCAD), Trenton, Ewing Township, New Jersey.

ADDRESSES: Requests for copies of the Review EA are to be directed to Mr. Bob Ostermueller (Code 202), Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, MSC 82, Lester, PA 19113, FAX (610) 595–0778.

FOR FURTHER INFORMATION CONTACT: Mr. Bob Ostermueller, (610) 595–0759.

SUPPLEMENTAL INFORMATION: Pursuant to the Council on Environmental Quality regulations (40 CFR parts 1500–1508) implementing the procedural provisions of the National Environmental Policy Act (NEPA), the Department of the Navy gives notice that an EA has been prepared for the disposal of NAWCAD Trenton and the subsequent reuse of the property.

A Notice of Intent (NOI) to prepare an EIS was published in **Federal Register** on March 17, 1997 (62 FR 12622). A public scoping meeting for the proposed project was held on April 2, 1997, at the Ewing Township Municipal Building, 2 Municipal Drive, Ewing Township, New Jersey.

In 1993, the Congressional Committee on Base Realignment and Closure (BRAC) recommended the closure of NAWCAD Trenton and the subsequent relocation of functions, personnel, equipment, and support to the Arnold Engineering Center, Tullahoma, Tennessee and the Naval Air Warfare Center Patuxent River, Maryland. This recommendation was approved by President Clinton and accepted by the One Hundred Third Congress in 1993. The BRAC legislation also identified the requirements for compliance with NEPA stating that the provisions of NEPA shall apply during the process of property disposal. The EA will evaluate environmental impacts of alternative reuse concepts of the property under current or other zoning classifications, including a "no action" alternative, which would be retention of the property by the Navy in caretaker status.

Major environmental issues that will be addressed in the EA include, but are not limited to, air quality, water quality, wetlands, endangered species, cultural and historical resources, and socioeconomic impacts of the reasonably foreseeable reuse of the property.

Federal, state and local agencies, and individuals interested in obtaining a copy of the Review EA should contact Mr. Bob Ostermueller (Code 202), Northern Division, Naval Facilities Engineering Command, 10 Industrial Highway, MSC 82, Lester, PA 19113, FAX (610) 595–0778.

Dated: February 3, 1998.

Michael I. Quinn,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–3104 Filed 2–6–98; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors to the United States Naval Academy

AGENCY: Department of the Navy, DoD.

ACTION: Notice of meeting.

SUMMARY: The United States Naval Academy Board of Visitors will meet to make such inquiry as the Board shall deem necessary into the state of morale and discipline, the curriculum, instruction, physical equipment, fiscal affairs, and academic methods of the Naval Academy. During this meeting inquiries will relate to the internal personnel rules and practices of the Academy, information regarding on-going criminal investigations, and include discussions of personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. The executive session of this meeting will be closed to the public.

DATES: The meeting will be held on Tuesday, February 10, 1998 from 8:30 a.m. to 12:00 p.m. The executive session of the meeting will be held from approximately 11:00 a.m. to 12:00 p.m. and will be closed to the public.

ADDRESSES: The meeting will be held in the Senate Russell Office Building, Room 301, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander Gerral K. David, U.S. Navy, Executive Secretary to the Board of Visitors, Office of the Superintendent, United States Naval Academy, Annapolis, MD, 21402–5000, telephone number: (410) 293–1503.

SUPPLEMENTARY INFORMATION: This notice of meeting is provided per the Federal Advisory Committee Act (5 U.S.C. App. 2). The executive session of the meeting will consist of discussions of information which pertain to the conduct of various midshipmen at the Naval Academy and internal Board of Visitors matters. Discussion of such information cannot be adequately segregated from other topics, which precludes opening the executive session of this meeting to the public. In accordance with 5 U.S.C. App. 2, section 10(d), the Secretary of the Navy has determined in writing that the special committee meeting shall be partially closed to the public because they will be concerned with matters as outlined in section 552b(c) (2), (5), (6), (7), and (9) of Title 5, United States Code. Due to unavoidable delay in the administrative process of preparing for this meeting, the normal 15 day notice could not be provided.

Dated: February 4, 1998.

Michael I. Quinn,

Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 98–3265 Filed 2–6–98; 8:45 am]

BILLING CODE 3810–FF–P

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 April 10, 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: February 3, 1998.

Linda Tague,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Chief Financial Officer

Type of Review: Reinstatement.

Title: Application for Federal Education Assistance (AFEA).

Frequency: Annually.

Affected Public: Individuals or households; Not-for-Profit institutions; State, Local or Tribal Government, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 15,550.

Burden Hours: 4,404.

Abstract: The information collection is needed for the processing of various Department grant program's application from State and local educational agencies, and institutions of higher education. The information is used by program offices to determine eligibility and facilitate distribution of program funds.

[FR Doc. 98–3136 Filed 2–6–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Hearing

AGENCY: National Advisory Council on Indian Education, ED.

ACTION: Notice of open hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda for a hearing of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: March 8, 1998, 10:00 a.m. to 5:00 p.m., and March 9, 1998, 9:00 a.m. to 5:00 p.m.

ADDRESSES: Holiday Inn on the Hill, Congressman Room, 415 New Jersey Avenue, NW, Washington, DC, 20001, (202) 638–1616.

FOR FURTHER INFORMATION CONTACT: Dr. David Beaulieu, Director, Office of Indian Education, 1250 Maryland Avenue, SW., Portals 4300, Washington, DC 20202. Telephone: (202) 260–2431; Fax: (202) 260–7779.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is a presidentially appointed advisory council on Indian education established under Section 9151 of Title IX of the Elementary and Secondary Education Act of 1965, as amended (20 U.S.C. 7871). The Council advises the Secretary of Education and the Congress on funding and administration of programs with respect to which the Secretary has jurisdiction and that includes Indian children or adults as participants or that may benefit Indian children or adults. The Council also makes recommendations to the Secretary for filing the position of Director of Indian Education whenever a vacancy occurs.

This hearing will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the committee for its consideration. Written statements should be submitted to the address listed above.

Testimony is requested concerning the implementation and effectiveness of Federal Education programs with American Indian learners.

The Improving Americas Schools Act; Elementary and Secondary Education Act as amended 1994.

The Indian Education Act (Title IX)
Impact Aid Programs (Title VIII)
Comprehensive Education Programs (Title I)
School Improvement Programs
Migrant Education Programs (Title I, Part C)
Safe and Drug Free Schools (Title IV, Part A, Subpart I of the ESEA)
Goals 2000: Educate America Act

Testimony is also requested regarding the needs of American Indian leaners in the following areas:

Bilingual Education
After School Programs
New Teachers
Equity of Opportunity for Indian Children
The National Test

A summary of the proceedings and related matters which are informative to

the public consistent with the policy of Title, 5 U.S.C. 552b, will be available to the public within fourteen days of the meeting, and are available for public inspection at the Office of Elementary and Secondary Education, U.S. Department of Education, 1250 Maryland Avenue, SW, Washington, DC 20202, from the hours of 8:30 a.m. to 5:00 p.m.

Dated: February 4, 1998.

Gerald N. Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

Sunday, March 8, 1998

10:00 a.m.—Call to Order
Roll Call of the Membership
Introductions
Presentation on Reauthorization
12:00 noon—Lunch
1:00 p.m.—Hearings
5:00 p.m.—Adjournment

Monday, March 9, 1998

9:00 a.m.—Hearings
12:00 noon—Lunch
1:00 p.m.—Working Session
5:00 p.m.—Adjournment.

[FR Doc. 98–3221 Filed 2–6–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance; Meeting

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming partially closed meeting of the Advisory Committee on Student Financial Assistance. This notice also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATES AND TIMES: February 25, 1998, beginning at 8:30 a.m. and ending at 5:30 p.m., but closed from approximately 4:00 p.m. to 5:00 p.m.; and February 26, 1998, beginning at 8:30 a.m. and ending at approximately 2:00 p.m.

ADDRESSES: The Washington Marriott Hotel, Georgetown I Room, 1221 22nd Street, N.W., Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. 20202–7582 (202) 708–7439 or visit our web site at www.ed.gov/offices/AC/ACSFA.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee is established to provide advice and counsel to the Congress and the Secretary of Education on student financial aid matters, including providing technical expertise with regard to systems of need analysis and application forms, making recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students, conducting a study of institutional lending in the Stafford Student Loan Program, and assisting with activities related to reauthorization of the Higher Education Act of 1965. As a result of the passage of the Higher Education Amendments of 1992, the Congress directed the Advisory Committee to assist with a series of special assessments and conduct an in-depth study of student loan simplification. The Advisory Committee fulfills its charge by conducting objective, nonpartisan, and independent analyses of important student aid issues. As a result of passage of the Omnibus Budget Reconciliation Act (OBRA) of 1993, Congress assigned the Advisory Committee the major task of evaluating the Ford Federal Direct Loan Program (FDLP) and the Federal Education Loan Program (FFELP). The Committee was directed to report to the Secretary and Congress on not less than an annual basis on the operation of both programs and submit a final report by January 1, 1997. The Committee submitted to Congress its final recommendations on the advisability of fully implementing the FDLP on December 11, 1996. The Advisory Committee has now focused its energies on activities related to reauthorization of the Higher Education Act of 1998.

The proposed agenda includes presentations and discussion sessions which will focus on (a) congressional and other legislative proposals and their impact on Title IV student aid programs; (b) an update on the Department of Education's reauthorization initiatives including the delivery system; (c) an association update on priorities for reauthorization; and (d) special topic discussion sessions pertaining to student loan interest rates and college costs issues. In addition, the Committee will discuss its agenda for the remainder of fiscal year 1998 and address other Committee business (e.g., personnel matters, etc). Space is limited and your are encouraged to register early if you plan to attend. You may register through Internet at ADV __COMSFA@ed.gov or Tracy__Deanna__Jones@ed.gov. Please include your name, title, affiliation, complete address (including Internet and e-mail—if available), and telephone and fax numbers. If you are unable to register electronically, you may mail or fax your registration information to the Advisory Committee staff office at (202) 401–3467. Also, you may contact the Advisory Committee staff at (202) 708–7439. The registration deadline is Wednesday, February 18, 1998.

The Advisory Committee will meet in Washington, D.C. on February 25, 1998, from 8:30 a.m. to approximately 5:30 p.m., and on February 26, from 8:30 a.m. to approximately 2:00 p.m. The meeting will be closed to the public on February 25, from approximately 4:00 p.m. to 5:00 p.m. to discuss personnel matters. The ensuing discussions will relate to internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552(b)(c) of Title 5 U.S.C.

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552(b) will be available to the public within fourteen days after the meeting.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. from the hours of 9:00 a.m. to 5:30 p.m., weekdays except Federal holidays.

Dated: February 3, 1998.

Dr. Brian K. Fitzgerald,

Staff Director, Advisory Committee on student Financial Assistance.

[FR Doc. 98–3088 Filed 2–6–98; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–197–006]

Chandeleur Pipe Line Company; Notice of Compliance Filing

February 3, 1998.

Take notice that on January 29, 1998, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets hereto in compliance with the Commission's Letter Order Pursuant to Section 375.307(e) issued January 7, 1998 in the above-referenced docket, Tariff Sheet Nos. 19, 19A, 19B, 29 and 67 to be effective November 1, 1997 to correct pagination errors in order to implement the GISB Standards adopted under Order No. 587–C.

Chandeleur states that it is serving copies of the filing to its customers, State Commissions and interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 98–3145 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–91–002]

CNG Transmission Corporation; Notice of Tariff Compliance Filing

February 3, 1998.

Take notice that on January 29, 1998, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of January 1, 1998:

Second Sub. Fifteenth Revised Sheet No. 31
Second Sub. Twenty-Seventh Revised Sheet No. 32
Second Sub. Twenty-Seventh Revised Sheet No. 33
Second Sub. Twelfth Revised Sheet No. 34
Second Sub. Fourth Revised Sheet No. 37

CNG states that it also submits an alternate version of each of these tariff sheets, as more fully described in its transmittal; in the event that the Commission rejects Sub. Fourth Revised Sheet No. 354, which is pending in Docket No. RP97–406–005, then CNG respectfully requests that the Commission adopt its proposed alternate revised tariff sheets effective January 1, 1998.

CNG states that the purpose of this filing is to remove the proposed ACRM surcharge form CNG's rates as required by Ordering Paragraph C of the Commission's January 14 order in the captioned proceedings.

CNG States that copies of its letter of transmittal and enclosures are being mailed to its customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. 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. 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. 98–3147 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–103–001]

CNG Transmission Corporation; Notice of Tariff Compliance Filing

February 3, 1998.

Take notice that on January 30, 1998, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sub. Thirty-Fourth Revised Sheet No. 32 and Sub. Thirty-Fourth Revised Sheet No. 33, with an effective date of February 1, 1998.

CNG also submits an alternate version of each of these tariff sheets, as more fully described below. In the event that the Commission rejects the primary version of pending sheets filed by CNG in Docket No. RP98–91–000, et al. on January 29, 1998, then CNG respectfully requests that the Commission adopt its proposed alternate sheets in lieu of the proposed primary tariff sheets, effective February 1, 1998.

CNG states that the purpose of this filing is to align CNG's filing in Docket No. RP98–103–000 with its compliance filing of January 29, 1998, reflecting revised motion rates to be effective January 1, 1998.

CNG states that these revised sheets reflect the Commission's five-month suspension of the gathering cost recovery mechanism (ACRM), proposed in Docket No. RP98–91. By separate filing dated January 29 in Docket No. RP98–91–000, et al., CNG filed tariff sheets to remove the proposed ACRM surcharge from CNG's rates effective January 1, 1998. The proposed primary and alternate sheets of the instant filing are intended to supersede the accepted sheets from CNG's January 29 Compliance Filing, effective February 1, 1998.

CNG states that copies of its letter of transmittal and enclosures are being mailed to its customers and interested state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. 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. 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. 98–3148 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–207–000]

Colorado Interstate Gas Company; Notice of Request Under Blanket Authorization

February 3, 1998.

Take notice that on January 27, 1998, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed a request with the Commission in Docket No. CP98–207–000, pursuant to Sections 157.205 and

157.211 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct a new delivery facility to deliver gas to Union Pacific Fuel, Inc. (UP), a producer, authorized in blanket certificate issued in Docket No. CP83–21–000, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to construct a new delivery facility located in Cheyenne County, Colorado to deliver gas to UP. The facility would consist of a two-inch meter run and facilities appurtenant. UP would use the gas for operational fuel gas of their processing facility. The delivery facility would be capable of delivering up to 3,000 Mcf per day at an estimated cost of $8,000.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3139 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–151–000]

Columbia Gas Transmission Corporation; Notice of Application

February 3, 1998.

Take notice that on December 22, 1997, as supplemented on January 26, 1998, Columbia Gas Transmission Corporation (Columbia), P.O. Box 1273, Charleston, West Virginia 25325–1273, filed an application in Docket No. CP98–151–000 for (1) Permission and approval to abandon certain jurisdictional natural gas facilities (a) by conveyance to Millennium Pipeline Company, L.P. (Millennium), (b) in place, or (c) by removal and (2) for a certificate of public convenience and necessity authorizing a lease of capacity from Millennium and a gas exchange arrangement to permit the continuation of services now provided by the facilities to be abandoned, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia states that it will enter into a limited partnership agreement with three other parties to form Millennium which has filed in Docket No. CP98–150–000 to construct and operate a pipeline system extending more than 400 miles from the international boundary with Canada in Lake Erie to a point near Mt. Vernon, New York. To eliminate duplicate facilities, Columbia has agreed to abandon facilities in place, by removal or by conveyance to Millennium. It is indicated that Columbia would remove certain segments of pipeline and Millennium would later place its pipeline in the same trench.

Columbia proposes to abandon in place 126.4 miles of 12-inch pipeline in Steuben, Chemung, Tioga, Broome, and Delaware Counties, New York, all part of Columbia's Line A–5. Columbia also proposes to abandon by removal approximately 7.1 miles of 24-inch pipeline, 0.2 miles of 16-inch pipeline, 54.6 miles of 12-inch pipeline, 21.4 miles of 10-inch pipeline, and 8.9 miles of 8-inch pipeline in Delaware, Sullivan, Orange and Rockland Counties, New York, all designated as portions of Line A–5.

Columbia proposes to abandon by conveyance to Millennium ten segments of pipeline ranging from 0.1 mile to 6.7 miles in length and from 4 to 24 inches in diameter, as well as 28 measuring stations, and the Milford Compressor Station consisting of a total of 1,050 horsepower.

Columbia is not proposing to abandon firm service to existing shippers as a result of the conveyance of facilities to Millennium. Columbia does indicate that it is negotiating with certain shippers for alternate delivery points or service. Columbia proposes to continue service to its existing A–5 shippers by implementing a capacity lease and exchange arrangement with Millennium. It is indicated that because the capacity lease agreement was regarded as a prerequisite to the development of the Millennium system from the outset, it was agreed in advance that Columbia would compensate Millennium for the long-haul capacity that would not be available because of the capacity lease. Columbia states that the monthly lease charge to be paid to Millennium by Columbia is equal to the firm transportation charges that would be paid to Millennium under a firm contract for 14,000 dt per day, the amount of firm long-haul capacity that would have been available on Millennium had not Columbia required the capacity for its A–5 shippers at existing service levels. Columbia seeks Commission authorization to treat the lease as an operating lease and record the costs in Account 858 as operational 858 costs and intends to begin recovery of the lease costs through a filing under its TCRA to be effective with its next rate filing in which the costs of the existing A–5 facilities are removed from its base rates. It is stated that under the lease agreement, Millennium will own and maintain operational control of the subject facilities.

In addition, Columbia Gas indicates that, prior to the conveyance of facilities to Millennium, it will install over-pressure protection equipment at a number of the measuring and regulating stations that will be conveyed but used for continued service to Columbia. It is indicated that the overpressure protection equipment is needed due to the higher maximum allowable operating pressure of the Millennium pipeline. Columbia has stated that the equipment would be installed as auxiliary facilities pursuant to Section 2.55(a) of the Commission's rules. However, Columbia has stated that it requests certificate authorization to install the facilities in the event the Commission determines that the facilities do not qualify as auxiliary facilities under Section 2.55.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before February 24, 1998, file with the Federal Energy Regulatory Commission, 888 First St., 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 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the

Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3138 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–012]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 3, 1998.

Take notice that on January 30, 1998, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheet to become effective February 1, 1998:

Twelfth Revised Sheet No. 30

El Paso states that the above tariff sheet is being filed to implement two negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 98–3146 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–123–000]

Equitrans, L.P.; Notice of Proposed Changes in FERC Gas Tariff

February 3, 1998.

Take notice that on January 29, 1998, Equitrans, L.P. (Equitrans) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, revised tariff sheets reflecting a rate change from currently effective rates and other changes in its tariff to the limited extent necessary to: (1) Implement the recovery of the stranded gathering reservation surcharge from all firm transportation customers under Rate Schedules NOFT, FTS, and STS–1 and to adjust the level of the surcharge based on the level of billing determinants for all firm transportation services; and (2) incorporate revised tariff language which gives transportation customers under Rate Schedule STS–1 the right to release their capacity through Equitrans' capacity release program and to receive service form all receipt, delivery, and pooling points on the Equitrans system on a secondary basis.

Equitrans states that in deriving the proposed stranded gathering surcharge gathering costs and the same reservation billing determinants and usage determinants which were reflected in Equitrans' RP97–346 rate filing. The only change which Equitrans states it proposes is the recalculation of the surcharge to eliminate storage billing determinants and include Section 7(c) transportation billing determinants. Equitrans is proposing a reservation-based gathering surcharge for firm transportation.

Equitrans states that this filing makes no change in the level of base tariff rates for any Equitrans' services—which rates are currently effective subject to refund and the outcome of a hearing in Docket No. RP97–346–000.

Equitrans requests that this filing be consolidated with its on-going rate case in Docket No. RP97–346. Equitrans also requests a shortened suspension period to permit the proposed level of the stranded gathering surcharge to take effect on March 1, 1998.

Any person desiring to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 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 in accordance with Section 154.210 of the Commission's Rules and 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3149 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–150–000; CP98–154–000; CP98–155–000 and CP98–156–000]

Millennium Pipeline Company, L.P.; Notice of Applications for Certificates and for a Presidential Permit and Section 3 Authorization

February 3, 1998.

Take notice that on December 22, 1997, Millennium Pipeline Company, L.P. (Millennium), P.O. Box 10146, Fairfax, Virginia 22030–0146, filed applications pursuant to Sections 3 and 7(c) of the Natural Gas Act. In Docket No. CP98–150–000, Millennium seeks a certificate of public convenience and necessity to (1) Construct, acquire, and operate a natural gas pipeline, to (2) transport up to 700,000 dt of natural gas per day for nine shippers, and (3) to authorize a capacity lease and exchange arrangement with Columbia Gas Transmission Corporation (Columbia). Millennium seeks in Docket No. CP98–134–000 a blanket certificate pursuant to Subpart G of Part 284 to provide self-implementing transportation authority. In addition, Millennium also requests in Docket No. CP98–155–000 a blanket certificate pursuant to Subpart F of Part 157 to provide certain routine activities. Finally, in Docket No. CP98–156–000 Millennium requests a Presidential Permit and Section 3 authorization under Section 153 of the Commission's Regulations, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Millennium states that it will be a limited partnership organized under the laws of the State of Delaware by Columbia, MCN Investment Corporation, TransCanada Pipelines Limited and Westcoast Energy (US) Inc.

In Docket No. CP98–150–000, Millennium proposes to construct approximately 376.4 miles of 36-inch diameter pipeline extending from an interconnection with facilities to be constructed by TransCanada at a United States-Canada border at a point in Lake Erie to a point in Ramapo, New York; approximately 39.3 miles of 24-inch pipeline from Buena Vista, New York to a point in Mount Vernon, New York; and metering and regulating facilities and related facilities. In addition, Millennium proposes to acquire from Columbia approximately 6.7 miles of 24-inch pipeline from Ramapo to Buena Vista; approximately 10.5 miles of 10- and 14-inch pipeline from a point in Orange County, New York to a point in Pike County, Pennsylvania; the Milford Compressor Station in Pike County, Pennsylvania; 9.6 miles of short pipeline segments in various counties in Pennsylvania and New York and metering and regulating facilities. It is stated that about 86 percent of the route will utilize existing Columbia easements or pipeline corridors. Millennium estimates the cost of the facilities to be constructed and acquired, exclusive of AFUDC, is $677.8 million which would be financed through equity contributions and project-financed debt. To eliminate duplicate facilities, Columbia has agreed to abandon facilities in place, by removal or by conveyance to Millennium. It is indicated that Columbia would remove certain segments of pipeline and Millennium would later place its pipeline in the same trench.

Millennium proposes to provide firm service for the following shippers:

Shipper	Maximum daily quantity (Mdth/day)	Term of service (Years)
CoEnergy Trading Co	65.0	20
Columbia Energy Serv	78.4	15
Duke Energy Trading and Marketing L.L.P	23.5	15
El Paso Energy Marketing Canada, Inc	15.7	10
Engage Energy (U.S.), L.P	235.1	10
PanCanadian Petroleum Company	19.6	10
Renaissance Energy (US) Inc	19.6	10
Stand Energy Corp.	8.0	20
TransCanada Gas Serv., A Division of TransCanada Energy Ltd	235.1	10

It is stated that capacity was contracted following a publicly-announced open season and that each of the shippers has executed an exclusive, binding precedent agreement for the firm service to be provided by Millennium.

Millennium proposes to provide firm service under Rate Schedule FTS and interruptible service under Rate Schedule ITS, under rates, terms and conditions provided in a *pro forma* tariff submitted with the application.

Millennium proposes to recover all costs associated with the transportation service through a reservation charge, with lower rates proposed for longer term contracts. Millennium proposes 100 percent load factor rates of $0.5353 for 10-year contracts, $0.4989 for 15-year contracts, and $0.4745 for 20-year contracts.

It is indicated that the 10-year rate is based upon a conventional cost of service in the first year of operation. It is also indicated that, in order to recognize the benefits created by longer term commitments from the shippers, Millennium proposes to derive rates for the 15 and 20-year contracts at lower levelized rates. It is stated that the 15-year rate is based on a levelized cost of service over the initial 10 years of the 15-year contracts and the 20-year rate is based on a levelized cost of service over the initial 15 years of the 20-year contracts. It is also indicated that shippers under 10-year contracts and new shippers that obtain firm service after the project's in-service date will pay a non-levelized rate. Millennium also will offer interruptible transportation service at the 100 percent load factor derivative of the maximum non-levelized firm rate.

Millennium proposes to depreciate its facilities over a 20-year period, with depreciation rates consistent with the levelized cost of service associated with 15 and 20-year contracts, and straight-line depreciation for the 10-year contracts. Millennium also proposes that it be accorded regulatory asset treatment for the difference between its straight-line and levelized depreciation expense. Millennium proposes a return on equity of 14 percent, while the cost

of debt capital is estimated to be 7.5 percent, with an overall rate of return of 9.775 percent, based on a 65 percent debt-35 percent equity capital structure.

Millennium requests issuance of blanket certificates pursuant to Subpart G of Part 284 of the Commission's Regulations to provide open-access transportation service and a blanket certificate pursuant to Subpart F of Part 157 of the Commission's Regulations to construct minor facilities and provide routine operations. Millennium also seeks authority under Section 3 of the Natural Gas Act and a Presidential Permit to construct and operate border facilities to attach its facilities to those of TransCanada.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before February 24, 1998, file with the Federal Energy Regulatory Commission, 888 First St., 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 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. The Commission's rules require that protestors provide copies of their protests to the party or parties directly involved. 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Millennium to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3137 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–030]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

February 3, 1998.

Take notice that on January 30, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective February 1, 1998:

Sixth Revised Sheet No. 7C

NGT states that the purpose of this filing is to report modifications to an existing negotiated rate term.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3142 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–367–008]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 3, 1998.

Take notice that on January 29, 1998, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets to become effective March 1, 1998:

Third Revised Volume No. 1

Thirteenth Revised Sheet No. 5
Tenth Revised Sheet No. 5–A
Sixth Revised Sheet No. 6
Seventh Revised Sheet No. 7
Eleventh Revised Sheet No. 8
Sixth Revised Sheet No. 8.1
Fourth Revised Sheet No. 19
Third Revised Sheet No. 21
Fourth Revised Sheet No. 31
Second Revised Sheet No. 106
Second Revised Sheet No. 232–E
Third Revised Sheet No. 237–A
Third Revised Sheet No. 262
Second Revised Sheet No. 270
Second Revised Sheet No. 277
Second Revised Sheet No. 303–A

Original Volume No. 2

Twenty-Fourth Revised Sheet No. 2
Twenty-Second Revised Sheet No. 2.1
Twenty-Third Revised Sheet No. 2.2
Twenty-Fourth Revised Sheet No. 2–A

Northwest states that the purpose of this filing is to place into effect an interim rate reduction of $1,000,000 during the pendency of the Commission's consideration of a request for rehearing of the Commission's November 25, 1997 Order Approving Settlement in the captioned proceeding.

The rate reduction is being made pursuant to the terms of the Settlement. As a part of the Settlement, Northwest is also classifying sufficient costs to the commodity charge component of its transportation rates for the interim period so as to effect a $.03 volumetric charge in Rate Schedules TF–1 (Large Customer) and TF–2. The effect of the interim rate reduction and cost classification adjustment is also a decrease in the reservation charges for Northwest's transportation rates.

In the event rehearing is granted and the Settlement is not approved, Northwest requests the right to terminate the interim rate reduction and place into effect its Motion Rates and that the Motion Rates shall remain the filed rates in the hearing in this proceeding. Northwest requests permission to withdraw this filing should rehearing be denied prior to March 1, 1998.

Northwest states that a copy of this filing has been served upon all intervenors in Docket No. RP96–367 as well as all interested customers and state commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Rules and 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 proceeding. 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. 98–3143 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–205–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

February 3, 1998.

Take notice that on January 27, 1998, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP98–205–000 a request pursuant to Sections 157.205 and 157.211 of the regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct a delivery point on Texas Eastern's existing 24-inch Line No. 1 in Alexander County, Illinois, to make natural gas deliveries to the Village of East Cape Girardeau, Illinois (East Cape Girardeau), a municipal corporation. Texas Eastern requests the authorization pursuant to Texas Eastern's 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.

Texas Eastern proposes to construct and install a 2-inch tap valve and 2-inch check valve (tap) on Texas Eastern's existing 24-inch Line No. 1 in Alexander County, Illinois.

Texas Eastern states that East Cape Girardeau would install, or cause to be installed, dual 2-inch turbine meter runs (meter station), approximately 50 feet of 2-inch pipeline which would extend from the meter station to the tap (connecting pipe), and electronic gas measurement equipment (EMG). In addition it is stated that East Cape Girardeau is in the process of developing a natural gas distribution system in order to serve East Cape Girardeau and surrounding areas.

Texas Eastern states that East Cape Girardeau would reimburse Texas Eastern for 100% of the cost and expenses that Texas Eastern would incur for installing the tap, and for reviewing and inspecting the installation of the meter station, connecting pipe, and EGM which costs and expenses are estimated to be approximately $20,118, including an allowance for federal income taxes. Texas Eastern proposes to deliver approximately 400 Mcf per day of natural gas to East Cape Girardeau.

Texas Eastern further states that it would render the transportation service pursuant to Texas Eastern's Rate Schedule SCT included in Texas Eastern's F.E.R.C. Gas Tariff, Sixth Revised Volume No. 1 after Texas Eastern receives Commission approval to Waive Section 1 of Rate Schedule SCT to permit East Cape Girardeau to receive service under Texas Eastern's Rate Schedule SCT. It is stated that the transportation service rendered through the proposed delivery point would be performed using existing capacity on Texas Eastern's system and pursuant to East Cape Girardeau's existing service agreement and would have no effect on Texas Eastern's peak day and annual deliveries.

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 § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3140 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–124–000]

Trunkline Gas Company; Notice of Annual Reconciliation Report

February 3, 1998.

Take notice that on January 30, 1998, Trunkline Gas Company (Trunkline) tendered for filing workpapers reflecting its final annual Take-or-Pay (TOP) Volumetric Surcharge Reconciliation.

Trunkline states that the information is submitted pursuant to Article II, Section 8 of the Stipulation and Agreement in the above-captioned proceeding which requires Trunkline to submit, on an annual basis a report of the TOP volumetric surcharge amounts collected from its customers. This final annual reconciliation report covers the entire 72-month surcharge period and reflects an unrecovered balance in the principal component and the interest component.

Trunkline states that copies of this filing have been served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.124 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before February 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3150 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP92–122–006]

Trunkline LNG Company; Notice of Annual Reconciliation Report

February 3, 1998.

Take notice that on January 30, 1998 Trunkline LNG Company (TLC) tendered for filing working papers reflecting its annual reconciliation report.

TLC states that the information is submitted pursuant to Article VIII, Section 4 of the Stipulation and Agreement in the above-captioned proceeding which required TLC to submit, on an annual basis, a report of the cost and revenues which result from the operation of Rate Schedule PLNG–2 dated June 26, 1987, as amended December 1, 1989.

TLC states that copies of this filing have been served on all participants in the proceeding and applicable state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before February 10, 1998. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 98–3141 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–156–005]

Viking Gas Transmission Company; Notice of Compliance Filing

February 3, 1998.

Take notice that on January 29, 1998, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, with a proposed effective date of February 1, 1998.

Viking states that the purpose of this filing is to comply with the Commission's May 21, 1997 "Order on Compliance Filing and Denying Rehearing" issued in Viking Gas Transmission Company, Docket Nos. RP97–156–001 and RP97–156–002, 79 FERC ¶61,221, directing Viking to adopt a trading partner agreement (TPA) in its tariff. Accordingly, Viking is incorporating in its tariff a Trading Partner Agreement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3144 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3189–001, et al.]

Atlantic City Electric Company, et al.; Electric Rate and Corporate Regulation Filings

February 2, 1998.

Take notice that the following filings have been made with the Commission:

1. Atlantic City Electric Company; Baltimore Gas and Electric Company; Delmarva Power & Light Company; Jersey Central Power & Light Company; Metropolitan Edison Company; Pennsylvania Electric Company; PECO Energy Company; Potomac Electric Power Company; PP&L, Inc. and Public Service Electric and Gas Company

[Docket Nos. ER97–3189–001, ER97–3189–002, ER97–3189–003, ER97–3189–004, ER97–3189–005, ER97–3189–006, ER97–3189–007, and ER97–3189–008]

Take notice that on December 15, 1997, Atlantic City Electric Company, Baltimore Gas and Electric Company, Delmarva Power & Light Company, Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, Potomac Electric Power Company, PP&L, Inc., and Public Service Electric and Gas Company submitted filings pursuant to ordering paragraph (F) of the Commission's order in *Pennsylvania-New Jersey-Maryland Interconnection, et al.*, 81 FERC ¶61,257 (1997).

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

2. Wisconsin Electric Power Company

[Docket No. ER98–1328–000]

Take notice that on January 7, 1998, Wisconsin Electric Power Company tendered for filing a Notice of Cancellation of Service Agreement No. 47 under Wisconsin Electric Power Company's FERC Electric Tariff Original Volume No. 2.

Wisconsin Electric requests waiver of the notice requirements to allow an effective date of January 1, 1998.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

3. Sierra Pacific Power Company

[Docket No. ER98–1329–000]

Take notice that on January 7, 1998, Sierra Pacific Power Company (Sierra) tendered for filing a Service Agreement (ServiceAgreement) with SCANA Energy Marketing, Inc. for Non-Firm Point-to-Point Transmission Service under Sierra's Open Access Transmission Tariff (Tariff):

Sierra filed the executed Service Agreement with the Commission in compliance with Sections 13.4 and 14.4 of the Tariff and applicable Commission regulations. Sierra also submitted revised Sheet No. 148A (Attachment E) to the Tariff, which is an updated list of all current subscribers. Sierra requests waiver of the Commission's notice requirements to permit and effective

date of January 7, 1998 for Attachment E, and to allow the Service Agreement to become effective according to its terms.

Copies of this filing were served upon the Public Utilities Commission of Nevada, the Public Utilities Commission of California and all interested parties.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. ER98–1330–000]

Take notice that on January 7, 1998, Florida Power & Light Company (FPL) tendered for filing one Exhibit A for the Crawley Delivery Point to the Aggregate Billing Partial Requirements Service Agreement Between FPL and Seminole Electric Cooperative, Inc. (SECI), and an original and six copies of an Agreement For Connection Of Facilities Between FPL, SECI and Peace River Electric Cooperative, Inc.

FPL requests that the Exhibit A for the Crawley Delivery Point and the Agreement For Connection Of Facilities be permitted to become effective on March 1, 1997.

FPL states that this filing is in accordance with Section 35 of the Commission's regulations.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

5. PacifiCorp

[Docket No. ER98–1331–000]

Take notice that PacifiCorp, on January 7, 1998, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Revision No. 3 to Appendix B of the Transmission Service and Operating Agreement (Agreement) between PacifiCorp and Utah Associated Municipal Power Systems (UAMPS).

PacifiCorp requests that a waiver of prior notice be granted and that an effective date of December 1, 1997 be assigned to Revision No. 3 to Appendix B to the Agreement.

Copies of this filing were supplied to UAMPS, the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission. 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: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

6. Louisville Gas and Electric Company

[Docket No. ER98–1332–000]

Take notice that on January 7, 1998 Louisville Gas and Electric Company (LG&E) tendered for filing an executed Non-Firm Point-To-Point Transmission Service Agreement between LG&E and NP Energy, Inc. under LG&E's Open Access Transmission Tariff.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

7. Virginia Electric and Power Company

[Docket No. ER98–1333–000]

Take notice that on January 7, 1998 Virginia Electric and Power Company (Virginia Power) tendered for filing the Service Agreement between Virginia Electric and Power Company and Strategic Energy Ltd. under the FERC Electric Tariff (Original Volume No. 4), which was accepted by order of the Commission dated September 11, 1997 in Docket No. ER97–3561–000 (80 FERC ¶ 61, 275 (1997)). Under the tendered Service Agreement, Virginia Power will provide services to Strategic Energy Ltd. under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of December 12, 1997 for the Service Agreement.

Copies of the filing were served upon Strategic Energy Ltd., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

8. Wisconsin Electric Power Company

[Docket No. ER98–1334–000]

Take notice that on January 7, 1998, Wisconsin Electric Power Company tendered for filing a Notice of Cancellation of Service Agreement No. 20 under Wisconsin Electric Power Company's FERC Electric Tariff Original Volume No. 7.

Wisconsin Electric requests waiver of the notice requirements to allow an effective date of January 1, 1998.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

9. Louisville Gas and Electric Company

[Docket No. ER98–1335–000]

Take notice that on January 7, 1998 Louisville Gas and Electric Company (LG&E) tendered for filing an executed Short-Term Firm Point-To-Point Transmission Service Agreement between LG&E and Equitable Power Services Company under LG&E's Open Access Transmission Tariff.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

10. PECO Energy Company

[Docket No. ER98–1337–000]

Take notice that on January 7, 1998, PECO Energy Company ("PECO") filed the following documents as part of its amendment to the Code of Conduct adopted by PECO in connection with the Commission's grant of market-based rates authorization to PECO in FERC Dockets Nos. ER96–640–000, ER96–641–000 and ER97–316–000, as amended in Docket No. ER98–377–000:

Letter of Transmittal

1. Clean and redlined copies of the amended Code of Conduct.

Copies of the filing are being sent to the Pennsylvania Public Utility Commission and all customers with executed agreements under PECO's FERC Electric Service Tariff—Volume I.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

11. PP&L, Inc.

[Docket No. ER98–1338–000]

Take Notice that on January 7, 1998, PP&L, Inc. (formerly known as Pennsylvania Power & Light Company) (PP&L), filed a Service Agreement dated December 29, 1997 with Green Mountain Power (GMP) under PP&L's FERC Electric Tariff, Original Volume No. 5. The Service Agreement adds GMP as an eligible customer under the Tariff.

PP&L requests an effective date of January 7, 1998 for the Service Agreement.

PP&L states that copies of this filing have been supplied to GMP and to the Pennsylvania Public Utility Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

12. Tucson Electric Power Company

[Docket No. ER98–1340–000]

Take notice that on January 7 1998, Tucson Electric Power Company (TEP), tendered for filing the following service agreement for firm point-to-point transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requested waiver of the 60-day prior notice requirement to allow the service agreement to become effective as of the earliest date service commenced under the agreement. The details of the service agreement are as follows:

1. Service Agreement for Firm Point-to-Point Transmission Service with

Enron Power Marketing, Inc. dated November 9, 1997. Service under this agreement commenced on November 9, 1997.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

13. Houston Lighting & Power Company

[Docket No. ER98–1341–000]

Take notice that on January 7, 1998, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Duke/Louis Dreyfus, L.L.C. (Duke/Louis) for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 7, 1998.

Copies of the filing were served on Duke/Louis and the Public Utility Commission of Texas.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

14. Houston Lighting & Power Company

[Docket No. ER98–1342–000]

Take notice that on January 7, 1998, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with NorAm Energy Services, Inc. (NorAm) for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 7, 1998.

Copies of the filing were served on NorAm and the Public Utility Commission of Texas.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

15. Houston Lighting & Power Company

[Docket No. ER98–1343–000]

Take notice that on January 7, 1998, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Morgan Stanley Capital Group Inc. ("Morgan Stanley") for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 7, 1998.

Copies of the filing were served on Morgan Stanley and the Public Utility Commission of Texas.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

16. PacifiCorp

[Docket No. ER98–1344–000]

Take notice that on January 8, 1998, PacifiCorp, tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, Non-Firm and Short-Term Firm Point-To-Point Transmission Service Agreements with Power Fuels, Inc. and a Non-Firm Point-To-Point Transmission Service Agreement with ConAgra Energy Service, Inc. under PacifiCorp's FERC Electric Tariff, First Revised Volume No. 11.

Copies of this filing were supplied to 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: February 12 , 1998, in accordance with Standard Paragraph E at the end of this notice.

17. Arizona Public Service Company

[Docket No. ER98–1345–000]

Take notice that on January 8, 1998, Arizona Public Service Company ("APS"), tendered for filing Umbrella Service Agreements to provide Firm and Non-Firm Point-to-Point Transmission Service under APS' Open Access Transmission Tariff with Power Fuels, Inc.

A copy of this filing has been served on Power Fuels, Inc. and the Arizona Corporation Commission.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

18. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER98–1346–000]

Take notice that on January 8, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as "NSP"), tendered for filing an Electric Service Agreement between NSP and Carolina Power & Light Company ("Customer"). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on December 15, 1997.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

19. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER98–1347–000]

Take notice that on January 8, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as "NSP"), tendered for filing an Electric Service Agreement between NSP and Tenaska Power Services Co. ("Customer").

This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on December 15, 1998.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

20. New York State Electric & Gas Corporation

[Docket No. ER98–1348–000]

Take notice that on January 8, 1998, New York State Electric & Gas Corporation ("NYSEG"), filed Service Agreements between NYSEG and Lockport Energy Associates, L.P., Northern Indiana Public Service Company and CNG Power Services Corporation ("Customers"). These Service Agreements specify that the Customers have agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on June 11, 1997, in Docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of January 9, 1998 for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customers.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

21. North West Rural Electric Cooperative

[Docket No. ER98–1349–000]

Take notice that on January 8, 1998, North West Rural Electric Cooperative (North West), submitted for filing its Agreement for Purchase of Power with the Town of Westfield, Iowa

(Agreement) pursuant to Section 205 of the Federal Power Act (FPA), 16 USC 824d, and 35.12 of the Regulations of the Federal Energy Regulatory Commission, 18 CFR Section 35.12. North West's filing is available for public inspection at its offices in Orange City, Iowa.

North West requests that the Commission accept the Agreement with an effective date of January 20, 1998.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

22. Southern Company Services, Inc.

[Docket No. ER98–1350–000]

Take notice that on January 8, 1998, Southern Company Services, Inc. ("SCSI"), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as "Southern Companies") filed a service agreement under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: NP Energy Inc. SCSI states that the service agreements will enable Southern Companies to engage in short-term market-based rate sales to this customer.

Comment date: February 12, 1998, in accordance with Standard Paragraph E at the end of this notice.

23. Northern States Power Company (Minnesota Company)

[Docket No. ER98–1351–000]

Take notice that on January 8, 1998, Northern States Power Company (Minnesota) ("NSP") tendered for filing Amendment No. 3 to the Interconnection and Interchange Agreement dated December 16, 1997, between NSP and Northwestern Wisconsin Electric Company ("NWEC"). This Amendment No. 3 updates the Interconnection and Interchange Agreement for the Rock Creek 230 kV Substation, incorporates additional contract language pertaining to adjustments to meter readings, and terminates Amendment No. 2 to the Interconnection and Interchange Agreement.

NSP request the Agreement be accepted for filing effective January 9, 1998, and requests waiver of the Commission's notice requirements in order for the Agreement to be accepted for filing on the date requested.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

24. New Century Services, Inc.

[Docket No. ER98–1352–000]

Take notice that on January 8, 1998, New Century Services, Inc. on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively "Companies") tendered for filing an Umbrella Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and Black Hills Power & Light.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

25. Wisconsin Public Service Corporation

[Docket No. ER98–1353–000]

Take notice that on January 8, 1998, Wisconsin Public Service Corporation ("WPSC") tendered for filing an executed Transmission Service Agreement between WPSC and Manitowoc Public Utilities, providing for transmission service under the Open Access Transmission Service Tariff, FERC Original Volume No. 11, and Revised Attachments E and I, indices of customers with agreements under WPSC's Open Access Transmission Tariff, FERC Volume No. 11.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

26. PECO Energy Company

[Docket No. ER98–1354–000]

Take notice that on January 8, 1998, PECO Energy Company (PECO) filed a Service Agreement dated December 12, 1997 with PG&E Energy Services (PG&E) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds PG&E as a customer under the Tariff.

PECO requests an effective date of December 12, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to PG&E and to the Pennsylvania Public Utility Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

27. UtiliCorp United Inc.

[Docket No. ER98–1355–000]

Take notice that on January 8, 1998, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Sunflower Electric Power Corporation for service under its Short-Term Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

28. UtiliCorp United Inc.

[Docket No. ER98–1356–000]

Take notice that on January 8, 1998, UtiliCorp United Inc. (UtiliCorp) filed service agreements with Sunflower Electric Power Corporation for service under its Non-Firm Point-to-Point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

29. American Electric Power Service Corporation

[Docket No. ER98–1357–000]

Take notice that on January 8, 1998, the American Electric Power Service Corporation (AEPSC) tendered for filing executed service agreements under the AEP Companies' Power Sales Tariff. The Power Sales Tariff was accepted for filing effective October 1, 1995, and has been designated AEP Companies' FERC Electric Tariff First Revised Volume No. 2. AEPSC requests waiver of notice to permit the service agreements to be made effective for service billed on and after December 9, 1997.

A copy of the filing was served upon the Parties and the State Utility Regulatory Commissions of Indiana, Kentucky, Michigan, Ohio, Tennessee, Virginia and West Virginia.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

30. Fitchburg Gas and Electric Light Company

[Docket No. ER98–1358–000]

Take notice that on January 8, 1998, Fitchburg Gas and Electric Light Company (Fitchburg) tendered for filing two service agreements between Fitchburg and Central Vermont Public Service Corp. (Central Vermont) and Central Maine Power Co. (Central Maine Power) for service under Fitchburg's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2463–000. Fitchburg requests an effective date of December 11, 1997 for Central Vermont and an effective date of December 7, 1997 for Central Maine Power.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

31. Unitil Power Corp.

[Docket No. ER98–1359–000]

Take notice that on January 8, 1998, Unitil Power Corp. (UPC) tendered for filing a service agreement between UPC and Central Vermont Public Service Corp. for service under UPC's Market-Based Power Sales Tariff. This Tariff was accepted for filing by the Commission on September 25, 1997, in Docket No. ER97–2460–000. UPC requests an effective date of December 11, 1997 for the service agreement.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

32. Puget Sound Energy, Inc.

[Docket No. ER98–1360–000]

Take notice that on January 8, 1998, Puget Sound Energy, Inc. (PSE) tendered for filing the 1997–98 Operating Procedures under the Pacific Northwest Coordination Agreement (PNCA). PSE states that the 1997–98 Operating Procedures relate to service under the PNCA. A copy of the filing was served upon the parties to the PNCA.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

33. Public Service Company of Colorado

[Docket No. ER98–1362–000]

Take notice that on January 8, 1998, Public Service Company of Colorado, tendered for filing revisions to Exhibits A, B and D to its Interconnection and Transmission Service Agreement with the Western Area Power Administration (Western) and is included in Rate Schedule FERC No. 47. The amendments revise the points of delivery and receipt and change the commitment levels.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

34. Northwest Regional Transmission Association

[Docket No. ER98–1363–000]

Take notice that on January 6, 1998, the Northwest Regional Transmission Association tendered for filing an amendment to its Governing Agreement. This amendment would allow the NRTA Manager to appoint an impartial facilitator to resolve disputes who is not associated with the Association.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

35. Wisconsin Public Service Corporation

[Docket No. ER98–1366–000]

Take notice that on January 9, 1998, Wisconsin Public Service Corporation tendered for filing a Notice of Cancellation of Wisconsin Public Service Corporation Service Agreement No. 10 under FERC Electric Tariff, Original Volume No. 2.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

36. Houston Lighting & Power Company

[Docket No. ER98–1367–000]

Take notice that on January 9, 1998, Houston Lighting & Power Company (HL&P) tendered for filing an executed transmission service agreement (TSA) with Tex-La Electric Cooperative of Texas, Inc. (Tex-La) for Non-Firm Transmission Service under HL&P's FERC Electric Tariff, Third Revised Volume No. 1, for Transmission Service To, From and Over Certain HVDC Interconnections. HL&P has requested an effective date of January 1, 1998.

Copies of the filing were served on Tex-La and the Public Utility Commission of Texas.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

37. Houston Lighting & Power Company

[Docket No. ER98–1368–000]

Take notice that on January 9, 1998, Houston Lighting & Power Company (HL&P) submitted for filing a notice of cancellation of a transmission service agreement with Destec Energy, Inc. (Destec) under HL&P's tariff for transmission service "to, from and over" certain HVDC Interconnections.

HL&P states that a copy of the filing has been served on all affected customers.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

38. Kansas City Power & Light Company

[Docket No. ER98–1369–000]

Take notice that on January 9, 1998, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated December 16, 1997, between KCPL and Koch Energy Trading, Inc. KCPL proposes an effective date of December 23, 1997 and requests a waiver of the Commission's notice requirement to allow the requested effective date. This Agreement provides for the rates and charges for Short-term Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888–A in Docket No. OA97–636–000.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

39. PG&E Energy Trading—Power, L.P.

[Docket No. ER98–1370–000]

Take notice that on January 9, 1998, PG&E Energy Trading-Power, L.P. ("PGET") filed a Notice of Succession with the Federal Energy Regulatory Commission indicating that the name of USGen Power Services, L.P., an indirect wholly-owned subsidiary of PG&E Corporation, has been changed to PG&E Energy Trading-Power, L.P., effective January 1, 1998. In accordance with Sections 35.16 and 131.51 of the Commission's regulations, 18 CFR 35.16, 131.51 (1996), PGET adopted and ratified all applicable rate schedules filed with the Commission by USGen Power Services, L.P.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

40. Virginia Electric and Power Company

[Docket No. ER98–1371–000]

Take notice that on January 9, 1998, Virginia Electric and Power Company (Virginia Power) tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service with New Energy Ventures, LLC and Tenaska Power Services Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide non-firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon New Energy Ventures, LLC and Tenaska Power Services Company, the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

41. Virginia Electric and Power Company

[Docket No. ER98–1372–000]

Take notice that on January 9, 1998, Virginia Electric and Power Company (Virginia Power) tendered for filing Service Agreements for Firm Point-to-Point Transmission Service with New Energy Ventures, LLC and Tenaska

Power Services Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 14, 1997. Under the tendered Service Agreement, Virginia Power will provide firm point-to-point service to the Transmission Customers under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon New Energy Ventures, LLC and Tenaska Power Services Company, Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

42. Kansas City Power & Light Company

[Docket No. ER98–1373–000]

Take notice that on January 9, 1998, Kansas City Power & Light Company (KCPL) tendered for filing a Service Agreement dated December 22, 1997, between KCPL and OGE Energy Resources, Inc. KCPL proposes an effective date of December 30, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order 888–A in Docket No. OA97–636.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

43. Northern States Power Company (Minnesota Company) and Northern States Power Company (Wisconsin Company)

[Docket No. ER98–1374–000]

Take notice that on January 9, 1998, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin) (collectively known as "NSP") tendered for filing an Electric Service Agreement between NSP and Southern Company Services, Inc. by and on behalf of The Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company ("Customer"). This Electric Service Agreement is an enabling agreement under which NSP may provide to Customer the electric services identified in NSP Operating Companies Electric Services Tariff original Volume No. 4. NSP requests that this Electric Service Agreement be made effective on December 15, 1997.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

44. PECO Energy Company

[Docket No. ER98–1375–000]

Take notice that on January 9, 1998, PECO Energy Company (PECO) filed a Service Agreement dated December 26, 1997 with Littleton Water and Light Department (Littleton) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds Littleton as a customer under the Tariff.

PECO requests an effective date of December 26, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to Littleton and to the Pennsylvania Public Utility Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

45. PECO Energy Company

[Docket No. ER98–1376–000]

Take notice that on January 9, 1998, PECO Energy Company (PECO) filed a Service Agreement dated November 13, 1997 with DTE Energy Trading, Inc. (DTE–ET) under PECO's FERC Electric Tariff Original Volume No. 1 (Tariff). The Service Agreement adds DTE–ET as a customer under the Tariff.

PECO requests an effective date of December 15, 1997, for the Service Agreement.

PECO states that copies of this filing have been supplied to DTE–ET and to the Pennsylvania Public Utility Commission.

Comment date: February 13, 1998, in accordance with Standard Paragraph E at the end of this notice.

46. American Electric Power Service Co., Appalachian Power Co., Columbus Southern Power Co., Indiana Michigan Power Co., Kentucky Power Co., Kingsport Power Co., Ohio Power Co., Wheeling Power Co., Boston Edison Co., Commonwealth Edison Co., Commonwealth Edison Co. Of Indiana, Inc., Consolidated Edison Co. of New York, Inc., Illinois Power Co., MidAmerican Energy Co., New York State Electric & Gas Corp., Northeast Utilities Service Co., Connecticut Light & Power Co., Holyoke Water Power Co., Holyoke Power & Electric Co. Public Service Company of New Hampshire, Western Massachusetts Electric Co., PacifiCorp, Wisconsin Electric Power Co., Allegheny Power Service Corp., Monongahela Power Co., The Potomac Edison Co., West Penn Power Co., Central Hudson Gas & Electric Corp. Consumers Energy Co., El Paso Electric Co., Niagara Mohawk Power Corp., and Puget Sound Energy, Inc.

[Docket Nos. OA97–408–002, OA97–431–002, OA97–459–002, OA97–279–001, OA97–126–002, OA97–313–001, OA97–278–002, OA97–284–001, OA97–411–002, OA97–216–002, OA97–117–001, OA97–125–002, OA97–434–001, OA97–430–002, OA97–158–001, and OA97–449–001

Take notice that the companies listed in the above-captioned dockets submitted revised standards of conduct [1] under Order Nos. 889 *et seq.*[2] The revised standards were submitted in response to the Commission's December 18, 1997 orders on standards of conduct.[3]

Comment date: February 17, 1998, in accordance with Standard Paragraph E at the end of this notice.

47. Virginia Electric and Power Company

[Docket No. ER98–1456–000]

Take notice that on January 16, 1998, Virginia Electric Power Company (Virginia Power) tendered for filing the unexecuted Service Agreement between Virginia Electric and Power Company and Southern Energy Retail Trading and Marketing, Inc., under the FERC Electric

[1] The revised standards of conduct were submitted between January 15 and 21, 1998.

[2] Open Access Same-Time Information System (Formerly Real-Time Information Network) and Standards of Conduct, 61 FR 21737 (May 10, 1996), FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶31,035 (April 24, 1996); Order No. 889–A, *Order on rehearing*, 62 FR 12484 (March 14, 1997), III FERC Stats. & Regs. ¶31,049 (March 4, 1997); Order No. 889–B, *rehearing denied*, 62 FR 64715 (December 9, 1997), 81 FERC ¶61,253 (November 25, 1997).

[3] American Electric Power Service Corporation, *et al.*, 81 FERC ¶61,332 (1997); Illinois Power Company, *et al.*, 81 FERC ¶61,338 (1997); and Allegheny Power Service Corporation, *et al.*, 81 FERC ¶61,339 (1997).

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 Southern Energy Retail Trading and Marketing, Inc., under the rates, terms and conditions of the applicable Service Schedules included in the Tariff. Virginia Power requests an effective date of December 18, 1997, for the Service Agreement. On January 27, 1998, Virginia Power amended its January 16, 1998, filing in the above-referenced docket.

Copies of the filing were served upon Southern Energy Retail Trading and Marketing, Inc., the Virginia State Corporation Commission and the North Carolina Utilities Commission.

Comment date: February 13, 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. 98–3133 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL98–3–000]

Processes for Assuring Nondiscriminatory Transmission Service as New Reliability Rules Are Developed for Using the Transmission System; Supplemental Notice of Conference

February 2, 1998.

I

On January 5, 1998, the Federal Energy Regulatory Commission (Commission) announced its intention to convene a public conference on February 20, 1998, to discuss what role the Commission should play and what procedures it should follow, in the absence of new federal legislation on reliability issues, to address the effect of new reliability standards on jurisdictional electric transmission service (63 FR 1453, January 9, 1998). The January 5 notice affirmed the Commission's commitment to rules and practices for reliable operation of the grid that are compatible with open, non-discriminatory use of transmission systems, and requested expressions of interest from persons interested in participating in an informal discussion of potential processes for achieving this end. The notice emphasized that the conference is for the limited purpose of discussing process issues.

In this supplemental notice, the Commission announces the format of the round-table discussion, suggests various process models that may warrant consideration, and identifies those persons who have been invited to participate in the round-table. In addition, procedures are established for the submission of written comments following the conference.

II

The Commission's intention is to have a free-flowing discussion unbound by formal, timed statements. The panel participants and their affiliations are listed in Attachment A. They have been selected for broad representation, within the constraints of the round-table format.

The round-table participants will discuss the preferred process for Commission consideration and approval of a new or revised reliability standard or rule that is to be used by Commission jurisdictional transmission providers and that appears to be a term or condition of transmission service. For example, a reliability organization (NERC, regional council, independent system operator, or other group that is larger than one transmission provider) may develop a new reliability rule or change an existing rule. A rule that appears to be a term or condition of transmission service may require Commission approval.

The Commission has reviewed the comments filed in response to the January 5 notice. We appreciate the commenters' thoughtful consideration and the diverse points of view expressed. We suggest below three processes that merit discussion at the round-table. In putting forward these three processes, the Commission is not suggesting that they are the only ones under consideration. Any participant may suggest variations on these processes or an entirely different process.

Process 1—All transmission providers that are members of a reliability organization would follow that organization's rule with no Commission approval. Transmission customers wishing to challenge the rule as an inappropriate term or condition of transmission service for a jurisdictional utility would file a complaint with the Commission pursuant to Section 206 of the Federal Power Act (FPA).

Process 2—All jurisdictional utilities that are members of a reliability organization would file the rule change as an amendment to their transmission tariffs.

Process 3—The reliability organization would file a request for declaratory order that the rule is a just and reasonable term or condition of transmission service. The rule would be effective following a Commission order approving the rule. Jurisdictional utilities would file tariff amendments to comply with the Commission order.

The discussion will focus on the potential advantages and disadvantages of each process. Issues that may need to be addressed include whether each process is:

- Consistent with the FPA;
- efficient from the viewpoint of each of the industry participants and the Commission;
- able to accommodate any potential need for urgent implementation of the rule; and
- compatible with regulatory approvals for non-jurisdictional transmission providers;

If Process 2 or 3 is employed and the traditional "rule of reason" with respect to inclusion of utility practices in filed tariffs continues to apply, participants will consider criteria for identifying those rules that should be treated as terms and conditions of service and,

therefore, require approval by the Commission.

If the Commission is unable to approve a particular condition, consideration would be required as to what alternative condition, if any, would serve the specific reliability purpose intended by the reliability organization.

The Chairman has asked Commissioner Vicky Bailey to chair the round-table discussions. The round-table will begin at 9:30 am in the Commission Meeting Room, Room 2C, 888 First Street, NW, Washington, D.C. 20426. Participants who have audio/visual requirements should contact Wanda Washington at 202–208–1460, no later than February 13, 1998.

If there is sufficient interest, the Capitol Connection will provide a live broadcast of the round-table to interested persons. Persons interested in receiving the broadcast for a fee should contact Shirley Al-Jarani by telephone at the Capitol Connection at 703–993–3100 no later than February 6, 1998.

In addition, National Narrowcast Network's Hearings-On-The-Line service covers all Commission meetings live by telephone so that interested persons can listen to the proceedings from any telephone without special equipment. Call 202–966–2211 for details. Billing is based on time on-line.

The Commission will also afford an opportunity for persons wishing to file written comments in response to the round-table discussion. Those wishing to file such comments should do so by March 2, 1998.

FOR FURTHER INFORMATION CONTACT: David N. Cook, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, (202) 208–0955.

Linwood A. Watson, Jr.,

Acting Secretary.

Attachment A—Reliability Round-Table Panelists, February 20, 1998

Kurt Conger, Director of Policy Analysis, American Public Power Association

Jose Delgado, Assistant Vice President, Wisconsin Electric Power Company and Chairman and President, MidAmerican Interconnected Network

Dennis Eyre, Executive Director, Western System Coordinating Council

Michael Gent, President, North American Electric Reliability Council

Philip G. Harris, President and Chief Executive Officer, PJM Interconnection and Regional Manager, Mid-Atlantic Area Council

Charles Gray, General Counsel, National Association of Regulatory Utility Commissioners

Susan Kelly, Senior Regulatory Counsel, National Rural Electric Cooperative Association

William Newman, Senior Vice President, Southern Company

Sonny Popowsky, Consumer Advocate of Pennsylvania

Vann Prater, Director, Electricity Affairs and Procurement, AMOCO Exploration and Production Sector, Electricity Consumers Resource Council

Paul Barber, Vice President, Transmission and Engineering, Citizens Power, LLC

Julie Simon, Director of Policy, Electric Power Supply Association

Ronald J. Threlkeld, Senior Vice President, British Columbia Hydro and Chairman Canadian Electricity Association

Steven J. Kean, Senior Vice President, Enron Corporation, Representative of the Department of Energy.

[FR Doc. 98–3134 Filed 2–6–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting

February 4, 1998.

The following notice of meeting is published pursuant to section 3(A) of the Government in the Sunshine Act (Pub. L. No. 94–409), 5 U.S.C. 552B:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: February 11, 1998, 10:00 a.m.

PLACE: Room 2C, 888 First Street, N.E., Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: David P. Boergers, Acting Secretary, telephone (202) 208–0400. For a recording listing items stricken from or added to the meeting, call (202) 208–1627.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Reference and Information Center.

Consent Agenda—Hydro

692nd Meeting—February 11, 1998

Regular Meeting (10:00 a.m.)

CAH–1.
Docket# P–1651, 018, Swift Creek Power Company, Inc.

CAH–2.
Docket# P–1922, 019, Ketchikan Public Utilities

CAH–3.
Docket# P–2614, 024, City of Hamilton, Ohio

CAH–4.
Docket# P–2744, 028, N.E.W. Hydro, Inc.

CAH–5.
Docket# P–2833, 063, Public Utility District No. 1 of Lewis County, Washington

CAH–6.
Omitted

CAH–7.
Docket# P–2494, 008, Puget Sound Energy, Inc.

Consent Agenda—Electric

CAE–1.
Docket# ER97–1508, 000, Consolidated Edison Company of New York, Inc.

CAE–2.
Docket# ER97–4422, 000, Cinergy Services, Inc. and PSI Energy, Inc.

CAE–3.
Docket# ER98–1285, 000, Public Service Company of New Mexico

CAE–4.
Docket# ER98–1292, 000, Dayton Power and Light Company
Other#s EL98–20, 000, Dayton Power and Light Company

CAE–5.
Docket# ER98–1121, 000, Tucson Electric Power Company

CAE–6.
Docket# ER97–4829, 000, PP&L, Inc.
Other#s EL98–25, 000, PP&L, Inc.
ER97–3189, 007, PP&L, Inc.
ER97–4830, 000, PP&L, Inc.

CAE–7.
Docket# ER98–1149, 000, Southern Energy Retail Trading and Marketing, Inc.

CAE–8.
Docket# ER98–1150, 000, Tucson Electric Power Company

CAE–9.
Docket# ER98–1127, 000, El Segundo Power, LLC

CAE–10.
Docket# ER97–4463, 000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)

CAE–11.
Docket# ER98–11, 000, Long Island Lighting Company
Other#s EL98–22, 000, Long Island Lighting Company

CAE–12.
Docket# ER98–1170, 000, Cleco Energy, L.L.C.

CAE–13.
Docket# ER98–1096, 000, Southern Company Services, Inc.
Other#s EL98–24, 000, Southern Company Services, Inc.
ER94–1348, 000, Southern Company Services, Inc.

ER95–1468, 000, Southern Company Services, Inc.
OA96–27, 000, Southern Company Services, Inc.
CAE–14.
Docket# EC97–45, 000, Long Island Lighting Company
CAE–15.
Docket# OA96–56, 000, Duquesne Light Company
CAE–16.
Docket# ER98–927, 000, Ocean Vista Power Generation, L.L.C
Other#s ER98–928, 000, Oeste Power Generating, L.L.C.
ER98–930, 000, Mountain Vista Power Generation, L.L.C.
ER98–931, 000, Alta Power Generation, L.L.C.
CAE–17.
Docket# ER95–112, 000, Entergy Services, Inc.
Other#s EL95–17, 000, Entergy Services, Inc.
ER96–586, 000, Entergy Services, Inc.
OA96–158, 000, Entergy Services, Inc.
OA97–341, 000, Entergy Louisiana, Inc.
OA97–355, 000, Entergy Gulf States, Inc.
CAE–18.
Docket# TX97–7, 001, Missouri Basin Municipal Power Agency
CAE–19.
Docket# ER91–150, 011, Southern Company Services, Inc.
Other#s ER91–326, 003, Southern Company Services, Inc.
ER91–570, 008, Southern Company Services, Inc.
CAE–20.
Docket# ER97–3664, 002, Union Electric Company
CAE–21.
Docket# EL98–5, 000, Wabash Valley Power Association, Inc. V. Northern Indiana Public Service Company, Inc.
CAE–22.
Docket# OA97–408, 001, American Electric Power Service Corporation, Appalachian Power Company and Columbus Southern Power Company, et al.
Other#s OA97–117, 002, Allegheny Power Service Corporation, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company
OA97–125, 001, Central Hudson Gas & Electric Corporation
OA97–126, 001, Illinois Power Company
OA97–158, 002, Niagara Mohawk Power Corporation
OA97–216, 001, Wisconsin Electric Power Company
CAE–22.
OA97–278, 001, New York State Electric & Gas Corporation
OA97–279, 002, Consolidated Edison Company of New York, Inc.
OA97–284, 002, Northeast Utilities Service Company, Connecticut Light & Power Company and Holyoke Water Power Company, et al.
OA97–313, 002, Midamerican Energy Company
OA97–411, 001, Pacificorp
OA97–430, 001, El Paso Electric Company
OA97–431, 001, Boston Edison Company
OA97–434, 002, Consumers Energy Company
OA97–442, 001, Northeast Utilities Service Company, Connecticut Light & Power Company and Holyoke Water Power Company, et al.
OA97–445, 001, Southern California Edison Company
OA97–449, 002, Puget Sound Energy, Inc.
OA97–459, 001, Commonwealth Edison Company and Commonwealth Edison Company of Indiana, Inc.
OA97–630, 001, Northeast Utilities Service Company, Connecticut Light & Power Company and Holyoke Water Power Company, et al.
CAE–23.
Docket# OA97–466, 000, Arizona Public Service Company
Other#s OA97–196, 000, Central Vermont Public Service Corporation and Connecticut Valley Electric Company, Inc.
OA97–312, 000, Western Resources Inc.
OA97–399, 000, San Diego Gas & Electric Company
OA97–402, 000, Louisville Gas & Electric Company
OA97–406, 000, Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin)
OA97–418, 000, Dayton Power & Light Company
OA97–422, 000, Central Maine Power Company
OA97–437, 000, Washington Water Power Company
OA97–439, 000, Virginia Electric & Power Company
OA97–440, 000, Peco Energy Company
OA97–452, 000, Rochester Gas & Electric Corporation
OA97–460, 000, Kentucky Utilities Company
OA97–462, 000, Maine Electric Power Company
OA97–506, 000, United Illuminating Company
OA97–519, 000, Bangor Hydro-electric Company
OA97–521, 000, United Illuminating Company
OA97–597, 000, United Illuminating Company

Consent Agenda—Gas and Oil

CAG–1.
Docket# RP98–8, 003, Mississippi River Transmission Corporation
Other#s RP96–199, 010, Mississippi River Transmission Corporation
CAG–2.
Docket G6ι IS94–10, 002, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS94–10, 003, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS94–11, 002, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS94–12, 002, BP Pipelines (Alaska) Inc.
CAG–2.
Other #s IS94–13, 002, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS94–14, 002, Exxon Pipeline Company
CAG–2.
Other #s IS94–15, 002, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS94–16, 002, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS94–17, 002, Unocal Pipeline Company
CAG–2.
Other #s IS94–31, 002, Unocal Pipeline Company
CAG–2.
Other #s IS94–34, 002, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS94–38, 001, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS95–13, 001, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS95–14, 001, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS95–15, 001, BP Pipelines (Alaska) Inc.
CAG–2.
Other #s IS95–16, 001, Exxon Pipeline Company
CAG–2.
Other #s IS95–17, 001, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS95–18, 001, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS95–19, 001, Unocal Pipeline Company
CAG–2.
Other #s IS96–1, 001, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS96–2, 001, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS96–3, 001, BP Pipelines (Alaska) Inc.
CAG–2.
Other #s IS96–4, 001, Exxon Pipeline Company
CAG–2.
Other #s IS96–5, 001, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS96–6, 001, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS96–7, 001, Unocal Pipeline Company
CAG–2.
Other #s IS97–2, 001, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS97–3, 001, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS97–4, 001, BP Pipelines (Alaska) Inc.
CAG–2.
Other #s IS97–5, 001, Exxon Pipeline Company
CAG–2.

Other #s IS97–6, 001, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS97–7, 001, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS97–8, 001, Unocal Pipeline Company
CAG–2.
Other #s IS97–10, 000, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS97–15, 000, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS97–16, 000, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS97–19, 000, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS97–20, 000, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS97–21, 000, BP Pipelines (Alaska) Inc.
CAG–2.
Other #s IS97–22, 000, Exxon Pipeline Company
CAG–2.
Other #s IS97–23, 000, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS97–24, 000, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS97–25, 000, Unocal Pipeline Company
CAG–2.
Other #s IS97–27, 000, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS98–3, 001, Amerada Hess Pipeline Corporation
CAG–2.
Other #s IS98–4, 001, Arco Transportation Alaska, Inc.
CAG–2.
Other #s IS98–5, 001, BP Pipelines (Alaska) Inc.
CAG–2.
Other #s IS98–6, 001, Exxon Pipeline Company
CAG–2.
Other #s IS98–7, 001, Mobil Alaska Pipeline Company
CAG–2.
Other #s IS98–8, 001, Phillips Alaska Pipeline Corporation
CAG–2.
Other #s IS98–9, 001, Unocal Pipeline Company
CAG–2.
Other #s OR94–2, 000, Amerada Hess Pipeline Corporation, Arco Transportation Alaska, Inc., BP Pipelines (Alaska) Inc. and Exxon Pipeline Company, et al.
CAG–2.
Other #s OR97–11, 000, Phillips Alaska Pipeline Corporation
CAG–3.
Docket# RP95–167, 008, Sea Robin Pipeline Company
CAG–4.
Docket# RP98–100, 000, Florida Gas Transmission Company
CAG–5.
Docket# RP97–20, 013, El Paso Natural Gas Company
CAG–5.
Other #s RP97–20, 012, El Paso Natural Gas Company
CAG–5.
Other #s RP97–20, 014, El Paso Natural Gas Company
CAG–5.
Other #s RP97–194, 003, El Paso Natural Gas Company
CAG–5.
Other #s RP97–397, 002, El Paso Natural Gas Company
CAG–6.
Docket# TM98–2–28, 001, Panhandle Eastern Pipe Line Company
CAG–7.
Docket# RP94–43, 016, ANR Pipeline Company
CAG–8.
Docket# RP98–46, 001, Koch Gateway Pipeline Company
CAG–9.
Docket# RP97–344, 004, Texas Gas Transmission Corporation
CAG–10.
Docket# RP91–229, 025, Panhandle Eastern Pipe Line Company
CAG–10.
Other #s RP92–166, 018, Panhandle Eastern Pipe Line Company
CAG–10.
Other #s RS92–22, 016, Panhandle Eastern Pipe Line Company
CAG–11.
Docket# RP96–348, 004, Panhandle Eastern Pipe Line Company
CAG–11.
Other #s RP96–348, 005, Panhandle Eastern Pipe Line Company
CAG–12.
Docket# OR97–1, 001, Rio Grande Pipeline Company
CAG–13.
Docket# TM98–2–20, 001, Algonquin Gas Transmission Company
CAG–14.
Docket# RP97–513, 000, Texaco Natural Gas, Inc. v. Sea Robin Pipeline Company
CAG–15.
Docket# RP98–83, 000, Texas Eastern Transmission Corporation
CAG–16.
Docket# OR95–7, 000, Longhorn Partners Pipeline
CAG–17.
Docket# CP97–561, 001, Tennessee Gas Pipeline Company
CAG–18.
Docket# CP97–96, 001, Koch Gateway Pipeline Company
CAG–19.
Doket # CP97–202, 001, USG Pipeline Company
CAG–20.
Doket # CP97–516, 002, Transwestern Pipeline Company
CAG–21.
Doket # CP97–373, 000, Williams Natural Gas Company
CAG–22.
Doket # CP98–6, 000, Dauphin Island Gathering Partners
CAG–23.
Omitted
CAG–24.
Doket # CP97–599, 000, Panenergy Field Services, Inc.
CAG–24.
Otheris CP95–661, 002, Texas Eastern Transmission Corporation
CAG–25.
Doket # RP94–220, 012, Northwest Pipeline Corporation

Hydro Agenda

H–1.
Doket # EL95–35, 000, Kootenai Electric Cooperative, Inc. and Clearwater Power Company, et al. v. Public Utility District No. 2 of Grant County, Washington
Order on initial decision.

Electric Agenda

E–1.
Doket # EL94–10, 000, Connecticut Valley Electric Company, Inc. v. Wheelabrator Claremont, Company, L.P. and Wheelabrator Environmental Systems, Inc. et al.
E–1.
Otheris EL94–62, 000, Carolina Power & Light Company v. Stone Container Corporation
E–1.
Otheris EL96–1, 000, Niagara Mohawk Power Corporation v. Penntech Papers, Inc.
E–1.
Otheris QF85–102, 005, Carolina Power & Light Company v. Stone Container Corporation
E–1.
Otheris QF86–177, 001, Connecticut Valley Electric Company, Inc. v. Wheelabrator Claremont Company, L.P. and Wheelabrator Environmental Systems, Inc. et al.
E–1.
Otheris QF86–722, 003, Niagara Mohawk Power Corporation v. Penntech Papers, Inc.
Order on requests for declaratory order and on requests for revocation of QF status.

Oil and Gas Agenda

I.
Pipeline Rate Matters
PR–1.
Reserved
II.
Pipeline Certificate Matters
PC–1.
Reserved

David P. Boergers,

Acting Secretary.

[FR Doc. 98–3289 Filed 2–5–98; 11:54 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Cases Filed During the Week of December 1 Through December 5, 1997

Office of Hearings and Appeals

During the Week of December 1 through December 5, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: February 2, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

SUBMISSION OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of December 1 through December 5, 1997]

Date	Name and location of applicant	Case No.	Type of submission
Dec. 3, 1997	James R. Hutton, Kingston, Tennessee.	VFA–0359	Appeal of an information request denial. If Granted: The November 13, 1997 Freedom of Information Request Denial would be rescinded and James R. Hutton would receive access to certain DOE Information.
Dec. 4, 1997	David Kouns, Denver, Colorado	VWA–0019	Request for Hearing under DOE Contractor Employee Protection Program. If Granted: A hearing under 10 C.F.R. Part 708 would be held on the complaint of David Kouns that reprisals were taken against him by management officials of Rocky Flats Field Office as a consequence of his having disclosed safety/health concerns.
	Ruth Towle Murphy, Knoxville, Tennessee.	VFA–0360	Appeal of an information request denial. If Granted: The Freedom of Information Request Denial issued by Oak Ridge Operations Office would be rescinded, and Ruth Towle Murphy would receive access to certain DOE information.
Dec. 5, 1997	Charles G. Frazier, Plainfield, Illinois.	VFA–0361	Appeal of an Information Request Denial. If Granted: The Freedom of Information Request Denial issued by the Chicago Operations Office would be rescinded, and Charles G. Frazier would receive access to certain DOE information.
	Jackie Hair Moldenhauer	VWA–0020	Request for Hearing under DOE Contractor Employee Protection Program. If Granted: A hearing under 10 C.F.R. Part 708 would be held on the complaint of Jackie Hair Moldenhauer that reprisals were taken against her by management officials of Lockheed Martin as a consequence of her having disclosed safety/health concerns.
	Personnel Security Hearing	VSO–0186	Request for Hearing under 10 C.F.R. Part 710. If Granted: An individual employed by a contractor of the Department of Energy would receive a hearing under 10 C.F.R. Part 710.
	Personnel Security Hearing	VSO–0187	Request for Hearing under 10 CFR Part 710. If Granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R. Part 710.

[FR Doc. 98–3169 Filed 2–6–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of September 29 Through October 3, 1997

During the week of September 29 through October 3, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: February 2, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No. 53; Week of September 29 Through October 3, 1997

Appeals

Richard R. McNulty, 10/1/97, *VFA–0331*

The DOE's Office of Hearings and Appeals (OHA) issued a decision granting in part a Freedom of Information Act (FOIA) Appeal filed by Richard R. McNulty. McNulty sought the release of information withheld by the Richland Operations Office (Richland). In its decision, OHA found that Richland's withholding was not sufficiently explained and justified in its determination letter. OHA also ordered Richland to obtain a document which a Richland employee claimed he had taken home and "lost." Accordingly, the Appeal was remanded to Richland for completion of an expanded search for the lost document, and the issuance of a new determination letter.

Wilburn T. Dunlap, 9/29/97, *VFA–0330*

Wilburn T. Dunlap filed an Appeal from a partial denial by the Department of Energy's Albuquerque Operations Office (DOE/AL) of a request for information that he submitted under the

Freedom of Information Act. The Los Alamos National Laboratory was able to find some of the information requested. In considering the Appeal, the DOE found that DOE/AL had conducted an adequate search for responsive documents, and it accordingly denied the Appeal.

Personnel Security Hearing

Personnel Security Hearing, 9/30/97, *VSO–0153*

A Hearing Officer Opinion recommended that an individual be granted access authorization. The Opinion found that the individual had resolved his financial problems and was behaving responsibly. The Opinion also found that the individual's omission of certain information on a security questionnaire did not involve an intent to deceive and that he could be entrusted with security matters.

Supplemental Order

Crysen Corporation, 9/29/97, *VFX–0013*

The Office of Hearings and Appeals found that the money contained in the subaccount funded by Crysen Corporation was subject to the provisions of the Stripper Well Settlement Agreement. Accordingly the OHA ordered the DOE's Office of the Controller to make available the Crysen funds for distribution in the following manner: 40 percent to the Federal government, 40 percent to the State governments, and 20 percent to crude oil claimants.

Refund Application

State Escrow Distribution, 10/3/97, *RF302–20*

The Office of Hearings and Appeals ordered the DOE's Office of the Controller to distribute $23,500,000 to the State Governments. The use of the funds by the States is governed by the Stripper Well Settlement Agreement.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Crude Oil Supple Ref Dist	RB272–00118	9/29/97
Estate of Walter Satrom et al	RK272–1958	10/3/97
Harris Teeter Super Markets Inc	RC272–00372	10/1/97
Iowa State Achievement Fund et al	RK272–02293	10/1/97
Merlyn Schocker et al	RK272–4551	10/3/97
Nationwide Utilities/Inactive Corp, In	RF272–98663	10/2/97
Pillsbury Company	RR272–303	10/1/97
Puerto Rico Elec Power Auth	RF272–67318	10/3/97
Steuben County Farm Bureau	RR272–265	10/3/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Canonie Construction	RF272–76844
Chamberlain Oil Co., Inc	VEE–0046
Continental Bondware	RF272–76961
Daisey Brothers, Inc	RF272–76848
Earl Smith, Inc	RF272–76952
Elbar, Inc	RF272–76451
Gina Karen Fishing, Inc	RF272–76713
M/V Jo Linda	RF272–76714
Montauk Caribbean Airways, Inc	RF272–76999
North Kitsap Gravel & Asphalt Co	RF272–76397
Pearman & Sons, Inc	RF272–76774
S & R Sanitation, Inc	RF272–76801
Sutherland Construction, Inc	RF272–76765
West Foods, Inc./Ventura Div	RF272–76793
Wilcox Drillers, Inc	RF272–98790
Williard Oil Company, Inc	VEE–0047

[FR Doc. 98–3170 Filed 2–6–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Hearings and Appeals

Notice of Issuance of Decisions and Orders During the Week of November 24 Through November 28, 1997

During the week of November 24 through November 28, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: February 2, 1998.
George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 61; Week of November 24 Through November 28, 1997

Appeal

Rural Alliance for Military Accountability, 11/26/97, *VFA–0335*

DOE granted an appeal that challenged the adequacy of the search for documents in response to a FOIA request. OHA remanded the matter to the DOE's Albuquerque Operations Office to conduct a further search for responsive documents in two offices under its jurisdiction.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

Boise City Farmers Coop et al	RF272–94732 ...	11/25/97
Gulf Oil Corporation/Sitton's Gulf	RF300–21690 ...	11/25/97

Dismissals

The following submissions were dismissed.

Name	Case No.
Patricia L. Baade	VFA–0294
William H. Payne	VFA–0354

[FR Doc. 98–3171 Filed 2–6–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

During the Week of December 15 Through December 19, 1997

Notice of Issuance of Decisions and Orders; Office of Hearings and Appeals

During the week of December 15 through December 19, 1997, the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: February 2, 1998.
George B. Breznay,
Director, Office of Hearings and Appeals.

Decision List No. 64 Week of December 15 through December 19, 1997

Appeals

Convergence Research, 12/19/97 VFA–0350

DOE granted an Appeal of a determination that withheld information in response to a FOIA request. OHA remanded the matter to the DOE's Bonneville Power Administration BPA for a new determination that either releases additional information or explains in detail its reasons for withholding it.

Information Focus on Energy, 12/19/97 VFA–0353

The DOE denied a Freedom of Information Act (FOIA) Appeal that was filed by Information Focus on Energy (IFOE). In its Appeal, IFOE claimed that the determination issued to it by the Inspector General's Office was inadequate because it did not explain the contents of the documents that were provided to IFOE. IFOE also challenged the adequacy of a search for responsive documents. The DOE found that the FOIA does not require an agency to explain the contents of documents that it provides to FOIA requesters and that the search for responsive documents was adequate.

Refund Applications

Congress Financial Corp. (Central) Franciscan Health Partnership, Inc., 12/16/97 RF272–04523, RF272–04692

Congress Financial Corp. (Central), and Franciscan Health Partnership, Inc., filed Applications for Supplemental Refund in the Subpart V crude oil overcharge refund proceeding. Congress applied for a supplemental refund based on its position as creditor of the recipient of the original refund, Hawthorn Mellody, Inc. (HMI). After receiving its original refund, HMI had declared bankruptcy and the bankruptcy case had been closed. The DOE found Congress was eligible to receive the refund because the trustee of HMI's bankruptcy proceeding submitted an affidavit stating that he was aware of the amount of the supplemental refund and that Congress should receive it. In addition, DOE found that Franciscan Health Partnership, Inc., was eligible to receive the refund that had originally been granted to St. Mary Hospital. Franciscan had owned St. Mary, a non-incorporated entity, and sold it to another hospital, after St. Mary received its original refund. The DOE determined Franciscan had retained the right to a crude oil refund. Accordingly, Congress' and Franciscan's Applications for Supplemental Refund were granted.

Hudson River Management Corp. RK272–04618

Hudson River Management Corp. D/B/A Hudson River Inn & Conference Center RC272–00376

HS 3, INC. D/B/A Hudson River Inn & Conference Center, 12/15/97 RJ272–00051

Hudson River Management Corp. (HRMC) filed an Application for Supplemental Refund in the Subpart V crude oil overcharge refund proceeding.

The DOE determined that HRMC and HS 3, Inc. (HS 3) had been ineligible to receive a large portion of the refunds each received for petroleum product purchases on behalf of the Hudson River Inn & Conference Center (HRICC). The DOE determined that HRICC's owner, HS 3's predecessor company, had not purchased the inn property until September 1980. Therefore, HRMC, which had obtained the original refund on HS 3's behalf, was ineligible for most of that refund. Accordingly, both the supplemental and original refunds were modified to subtract the pre-September 1980 purchase volumes, and HRMC's Application for Supplemental Refund was denied.

Durham Schools, 12/16/97 RR272–192

The DOE granted two Motions for Reconsideration filed by Libson Schools and Durham Schools. DOE found that the two school systems had acted in a timely fashion in 1995 when they corrected the deficiencies which had caused DOE to dismiss their Applications in 1995, and accordingly, determined that they should receive refunds.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

ATLANTIC RICHFIELD CO./SATURN PETROLEUM CO.	RF304–15511	12/18/97
INSTEEL WIRE PRODUCTS CO. ET AL	RK272–04690	12/15/97
SOUTHWEST MOTOR FREIGHT ET AL	RF272–76531	12/16/97
UPSTATE MILK COOP. INC. ET AL	RF272–95740	12/16/97

Dismissals

The following submissions were dismissed.

NAME	CASE NO.
UPSTATE MILK CO–OP, INC.	RG272–00146

[FR Doc. 98–3172 Filed 2–6–98; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

During the Week of December 22, 1997 Through December 26, 1997

Notice of Issuance of Decisions and Orders; Office of Hearings and Appeals

During the week of December 22 through December 26, 1997 the decisions and orders summarized below were issued with respect to appeals, applications, petitions, or other requests filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585–0107, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system. Some decisions and orders are available on the Office of Hearings and Appeals World Wide Web site at http://www.oha.doe.gov.

Dated: February 2, 1998.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision List No.65—Week of December 22 through December 26, 1997

Appeals

Homesteaders Association of the Pajarito Plateau, 12/22/97 VFA–0357

The Homesteaders Association of the Pajarito Plateau (HAPP) Appealed a determination issued to it by the Albuquerque Operations Office (AO). In its Appeal, HAPP asserted that AO failed to conduct an adequate search for documents concerning the transfer of DOE land and had improperly withheld information in six documents pursuant to Exemption 5 of the FOIA. The DOE determined that responsive documents may exist at the DOE's Los Alamos facility and it remanded the matter to AO for a search of that facility. The DOE also found that the six documents withheld in part contain segregable factual material which can not be withheld under Exemption 5 and remanded the matter to AO to release the material or to provide another determination explaining why the material should be withheld. Additionally, one of the documents contained a draft plan created by a local state governmental entity. The DOE remanded this matter to AO so that it could issue a new determination explaining how Exemption 5 could apply to that portion of the document. Consequently, HAPP's Appeal was granted in part.

Rural Alliance for Military Accountability, 12/22/97 VFA–0357

The Rural Alliance for Military Accountability (RAMA) Appealed a determination issued to it by the Rocky Flats Field Office (RF). The DOE determined that there was no merit to RAMA's assertion that RF failed to conduct an adequate search for documents concerning the transportation of hazardous materials. Consequently, RAMA's Appeal was denied.

Refund Applications

The Office of Hearings and Appeals issued the following Decisions and Orders concerning refund applications, which are not summarized. Copies of the full texts of the Decisions and Orders are available in the Public Reference Room of the Office of Hearings and Appeals.

APACHE TANK LINES, INC.	RJ272–52	12/23/97
GULF OIL CORPORATION/HOUDAILLE-DUVAL-WRIGHT CO.	RF300–18450	12/22/97
PROCTOR & GAMBLE PHARM. INC. ET AL	RK272–03062	12/23/97

Dismissals

The following submissions were dismissed.

Name	Case No.
PERSONNEL SECURITY REVIEW	VSA–0146

[FR Doc. 98–3173 Filed 2–6–98; 8:45 am]
BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–5964–3]

Industrial Combustion Coordinated Rulemaking Federal Advisory Committee Notice of Upcoming Meeting

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Industrial Combustion Coordinated Rulemaking (ICCR) Federal Advisory Committee notice of upcoming meeting.

SUMMARY: As required by section 9(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, section 9(c), EPA gave notice of the establishment of the ICCR Federal Advisory Committee (hereafter referred to as the ICCR Coordinating Committee) in the **Federal Register** on August 2, 1996 (61 FR 40413).

The public can follow the progress of the ICCR through attendance at meetings (which will be announced in advance) and by accessing the Technology Transfer Network (TTN), which serves as the primary means of disseminating information about the ICCR.

DATES: The next meeting of the ICCR Coordinating Committee is scheduled for February 24–25, 1998. Also, most of the ICCR Work Groups—which report to the Coordinating Committee—have meetings scheduled in February, 1998. The dates of these Work Group meetings are summarized below. Further information on the dates of the Coordinating Committee meeting and the Work Group meetings may be obtained by accessing the TTN or by calling EPA (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: The Coordinating Committee meeting on February 24–25, 1998 will be held at the Adam's Mark Hotel Winston Plaza, 425 North Cherry Street, Winston-Salem, NC. The telephone number for Adam's Mark Hotel Winston Plaza is (800) 444–2326. The locations of the Work Group meetings are summarized below. Further information on the locations of the Coordinating Committee meeting and the Work Group meetings may be obtained by accessing the TTN or by calling EPA (see **FOR FURTHER INFORMATION CONTACT**).

Inspection of Documents: Docket. Minutes of the meetings, as well as other relevant materials, will be available for public inspection at U.S. EPA Air and Radiation Docket and Information Center, Docket No. A–96–17. The docket is open for public inspection and copying between 8 a.m. and 4 p.m., Monday through Friday except for Federal holidays, at the following address: U.S. Environmental Protection Agency, Air and Radiation Docket and Information Center (6102), 401 M Street SW, Washington, DC 20460; telephone: (202) 260–7548. The docket is located at the above address in Room M–1500, Waterside Mall (ground floor). A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Fred Porter or Sims Roy, U.S. Environmental Protection Agency, Emission Standards Division, Combustion Group, (MD–13), Research Triangle Park, North Carolina 27711, telephone numbers (919) 541–5251 and 541–5263, respectively.

SUPPLEMENTARY INFORMATION:

Technology Transfer Network (TTN)

The TTN is one of the EPA's electronic bulletin boards.

The TTN can be accessed through the Internet at:

WWW: http://www.epa.gov/ttn
FTP: ttnftp.rtpnc.epa.gov

When accessing the WWW site, select Directory of TTN Sites, then select ICCR—Industrial Combustion Coordinated Rulemaking from the Directory of TNN Sites.

Access to the TTN through FTP is a streamlined approach for downloading files, but is only useful, if the desired filenames are known.

If more information on the TTN is needed, call the help desk at (919) 541–5384.

Meetings of the ICCR Coordinating Committee and Work Groups are open to the public. All Coordinating Committee meetings will be announced in the **Federal Register** and on the TTN. Work Group meetings will be announced on the TTN and in the **Federal Register**, when possible.

The next meeting of the Coordinating Committee will be held February 24–25, 1998 at the Adam's Mark Hotel Winston Plaza, 425 North Cherry Street, Winston-Salem, NC, from about 8:00 a.m. to about 6:00 p.m. The agenda for this meeting will include reports from the Work Groups on their progress, testing needs and prioritization issues, discussion of data gathering efforts to support the ICCR, and a discussion of direction and guidance from the Coordinating Committee to the Work Groups. An opportunity will be provided for the public to offer comments and address the Coordinating Committee.

The Work Groups have currently scheduled the following meetings:

Work group	Date	Location
Incinerators	February 5, 1998	Orlando, FL.
	April 30, 1998	Fort Collins, CO.
IC Engines	February 26, 1998	Winston-Salem, NC.
	April 30, 1998	Fort Collins, CO.
Boilers	February 26, 1998	Winston-Salem, NC.
	March 24, 1998	New Orleans, LA.
	April 30, 1998	Fort Collins, CO.
Stationary Combustion Turbines	February 26, 1998	Winston-Salem, NC.
	April 30, 1998	Fort Collins, CO.

Work group	Date	Location
Process Heaters	February 26, 1998 ..	Greensboro, NC.
	April 30, 1998	Fort Collins, CO.
Testing and Monitoring Protocol	February 26, 1998 ..	Winston-Salem, NC.
	May 1, 1998	Fort Collins, CO.

The agendas for these meetings include review and revision of the ICCR databases, data and information gathering efforts, possible emission testing, and potential subcategorization. An opportunity will be provided at each meeting for the public to offer comments and address the Work Group.

Individuals interested in Coordinated Committee meetings, Work Group meetings, or any aspect of the ICCR for that matter, should access the TTN on a regular basis for information.

Two copies of the ICCR Coordinating Committee charter are filed with appropriate committees of Congress and the Library of Congress and are available upon request to the Docket (ask for item #–B–1). The purpose of the ICCR Coordinating Committee is to assist EPA in the development of regulations to control emissions of air pollutants from industrial, commercial, and institutional combustion of fuels and non-hazardous solid wastes. The Coordinating Committee will attempt to develop recommendations for national emission standards for hazardous air pollutants (NESHAP) implementing section 112 and solid waste combustion regulations implementing section 129 of the Act, and may review and make recommendations for revising and developing new source performance standards (NSPS) under section 111 of the Act. The recommendations will cover boilers, process heaters, industrial/commercial and other incinerators, stationary internal combustion engines, and stationary combustion turbines.

Lists of Coordinating Committee and Work Group members are available from the TTN for the purpose of giving the public the opportunity to contact members to discuss concerns or information they would like to bring forward during the ICCR process.

It is anticipated that the next meeting of the Coordinating Committee, following the meeting in February, will be April 28–29, 1998 in Fort Collins, Colorado.

Dated: February 3, 1998.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 98–3208 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5963–7]

National Environmental Justice Advisory Council; Notification of Open Meeting

Pursuant to the Federal Advisory Committee Act (FACA), Public Law 92–463, we now give notice that on February 23–24, 1998, there will be a special business meeting of the Executive Council of the National Environmental Justice Advisory Council (NEJAC) on the times described below *(without the subcommittees and without a public comment period).* All times noted are Eastern Time. This meeting is open to the public with limited seating capacity.

Because there is limited seating available at this February NEJAC meeting, you must pre-register to attend. Documents that are the subject of NEJAC reviews are normally available from the originating EPA office and are not available from the NEJAC. The February 23–24, 1998 NEJAC meeting will be held at the Ritz Carlton Hotel, 1250 S. Hayes Street, Arlington, VA 22202, telephone number: 703/415–5000.

NEXT MEETING OF THE FULL NEJAC: You are encouraged to attend the next NEJAC meeting for May 31-June 3, 1998 in the Oakland—San Francisco area. At this meeting there will be a local environmental justice site tour, two public comment periods, and subcommittee meetings. Once the hotel site is selected for the meeting, another **Federal Register** notice will be published. You can also visit the NEJAC web site at: http://www.ttemi.com/nejac to stay up to date on all activities.

SCHEDULE OF THE FEBRUARY 1998 MEETING: This special business meeting of the Executive Council of NEJAC will convene Monday, February 23 from 9:00 a.m. to 9:00 p.m., and on Tuesday, February 24 from 9:00 a.m. to 6:30 p.m. to follow-up on issues pending from the December 1997 meeting, to discuss outstanding action items, and to discuss NEJAC administrative issues. There will be no new business discussed, no subcommittee meetings and no public comment period. There will also be no written or oral comments accepted.

FOR FURTHER INFORMATION CONTACT: For hearing impaired individuals or non-English speaking attendees wishing to arrange for a sign language or foreign language interpreter, please call or fax Tama Clare of Tetra Tech EM Inc. at Phone: 703/287–8880 or Fax: 703/287–8843.

You can register for the February 1998 Executive Council of the NEJAC meeting through the Internet at our World Wide Web site via the following address: http://www.ttemi.com/nejac or through the NEJAC Registration Toll-free Hotline at 888/335–4299.

Dated: February 2, 1998.

Robert J. Knox,

Designated Federal Official, National Environmental Justice Advisory Council.

[FR Doc. 98–3174 Filed 2–6–98; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on February 12, 1998, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*

B. *Report*
—Revised FCA Y2K Action Plan Word 6.0 Version
C. *New Business Regulation*
—Balloting and Stockholder Reconsideration Issues [12 CFR Part 611] (Proposed)

** Closed Session*

D. *Report*
—OGC Litigation Report

Dated: February 5, 1998.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 98–3358 Filed 2–5–98; 3:27 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICTIONS COMMISSION

[Report No. 2250]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice; Correction.

SUMMARY: This document corrects report no. 2250 regarding Petitions for Clarification published on January 30, 1998, (FR Doc. 98–2329). On page 4640, column three, paragraph one, the last sentence should read; "Replies to an opposition must be filed within 10 days after the time for filing opposition has expired".

FOR FURTHER INFORMATION CONTACT: Barbara Britt (202) 418–0314.

Federal Communications Commission.

Magalie Roman Salas.

Secretary.

[FR Doc. 98–3092 Filed 2–6–98; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1198–DR]

Maine; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Maine (FEMA–1198–DR), dated January 13, 1998, and related determinations.

EFFECTIVE DATE: January 25, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 25, 1998.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–3185 Filed 2–6–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1199–DR]

New Hampshire; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire (FEMA–1199–DR), dated January 15, 1998, and related determinations.

EFFECTIVE DATE: January 29, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster which was closed effective January 16, 1998 is now reopened to allow for additional damage resulting from an ice storm. The incident period for this declared disaster is January 7, 1998 through and including January 25, 1998.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwiatkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–3183 Filed 2–6–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1199–DR]

New Hampshire; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of New Hampshire, (FEMA–1199–DR), dated January 15, 1998, and related determinations.

EFFECTIVE DATE: January 24, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of New Hampshire, is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 15, 1998:

Belknap, Carroll, Cheshire, Coos, Grafton, Hillsborough, Merrimack, Strafford, and Sullivan Counties for Individual Assistance (already designated for Public Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–3184 Filed 2–6–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1197–DR]

Tennessee; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Tennessee, (FEMA–1197–DR), dated January 13, 1998, and related determinations.

EFFECTIVE DATE: January 29, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(10).

Tennessee, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1998:

Chester, Crockett, Gibson, Haywood, Madison, and Tipton Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.542, Fire Suppression Assistance; 83.543, Individual and Family Grant (IFG) Program; 83.544, Public Assistance Grants; 83.545, Disaster Housing Program; 83.548, Hazard Mitigation Grant Program.)

Dennis H. Kwaitkowski,

Deputy Associate Director, Response and Recovery Directorate.

[FR Doc. 98–3186 Filed 2–6–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1201–DR]

Vermont; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the state of Vermont, (FEMA–1201–DR), dated January 15, 1998, and related determinations.

EFFECTIVE DATE: January 26, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Vermont, is hereby amended to include Individual Assistance for the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 15, 1998:

Addison, Chittenden, Franklin, Grand Isle, Orange, and Windsor Counties for Individual Assistance (already designated for Public Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–3181 Filed 2–6–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1201–DR]

Vermont; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Vermont (FEMA–1201–DR), dated January 15, 1998, and related determinations.

EFFECTIVE DATE: January 16, 1998.

FOR FURTHER INFORMATION CONTACT: Madge Dale, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–3260.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective January 16, 1998.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Lacy E. Suiter,

Executive Associate Director, Response and Recovery Directorate.

[FR Doc. 98–3182 Filed 2–6–98; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Leeway Global Network, Inc., 18710 S. Wilmington Ave., Suite 100, Rancho Dominquez, CA 90220, Officers: Hyo Sik Rhee, President, Kay Kang, Secretary

ACM Export Corporation, 12866 Reeveston, Houston, TX 77039, Officers: Amanda De Pippo, President, Carlos De Pippo, Vice President.

Dated: February 3, 1998.

Joseph C. Polking,

Secretary.

[FR Doc. 98–3131 Filed 2–6–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 4, 1998.

A. Federal Reserve Bank of Cleveland (Jeffery Hirsch, Banking Supervisor) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. Milton Bancorp, Inc., Wellston, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Milton Banking Company, Wellston, Ohio.

B. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. James River Bankshares, Inc., Suffolk, Virginia; to acquire 100 percent

of the voting shares of First Colonial Bank, Hopewell, Virginia, which is the proposed successor by charter conversion to First Colonial Bank, FSB, Hopewell, Virginia.

C. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. G V Bancorp, Inc., and G V Bancorp Employee Stock Ownership Plan, both of Gunnison, Utah; to become bank holding companies by acquiring 100 percent of the voting shares of Gunnison Valley Bank, Gunnison, Utah. Comments regarding this application must be received not later than March 2, 1998.

Board of Governors of the Federal Reserve System, February 3, 1998.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 98–3107 Filed 2–6–98; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

The National Center for HIV, STD, and TB Prevention (NCHSTP): Meetings

Name: HIV Prevention Consultants Meetings.

Times and Dates: 9 a.m.-5 p.m., March 2, 1998. 9 a.m.-5 p.m., June 22, 1998. 9 a.m.-5 p.m., September 14, 1998. 9 a.m.-5 p.m., December 7, 1998.

Place: Washington Sheraton, 2660 Woodley Road, Washington, DC 20008, telephone 202/328–2000.

Status: Open to the public for observation and comment, limited only by the space available. The meeting rooms accommodate approximately 55 people.

Purpose: The purpose of these meetings is to provide a quarterly forum for consultations and discussion among representatives of governmental and nongovernmental organizations who are knowledgeable and experienced in HIV prevention policy, the staff of the Division of HIV/AIDS Prevention, and the National Center for HIV, STD, and TB Prevention.

Matters to be Discussed: Agenda items will include a discussion of broad HIV prevention programmatic and policy related issues.

Contact Person for More Information: Chad Martin, Division of HIV/AIDS Prevention, Intervention, Research, and Support NCHSTP, CDC, 1600 Clifton Road, M/S E–35, Atlanta, GA 30333, telephone 404/639–5200, email address: cgm8@cdc.gov

Dated: January 30, 1998.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–3154 Filed 2–6–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0058]

Sekisui Plastics Company, Ltd.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sekisui Plastics Co., Ltd., has filed a petition proposing that the food additive regulations be amended to expand the safe use of pyromellitic anhydride.

FOR FURTHER INFORMATION CONTACT: Mark A. Hepp, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3098.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5)(21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4582) has been filed by Sekisui Plastics Co., Ltd., c/o Bullwinkel Partners, Ltd., 19 S. LaSalle St., suite 1300, Chicago, IL 60603. The petition proposes to amend the food additive regulations in § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) to expand the conditions of the safe use of pyromellitic anhydride as a modifier in ethylene terephthalate copolymers.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: January 22, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–3207 Filed 2–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98F–0054]

Sequa Chemicals, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Sequa Chemicals, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of octadecanoic acid, reaction products with 2-[(2-aminoethyl)amino]ethanol and urea, and the acetate salts thereof, which may be emulsified with ethoxylated tallow alkyl amines, for use in the manufacture of paper and paperboard intended for use in contact with dry food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 8B4576) has been filed by Sequa Chemicals, Inc., c/o Keller and Heckman, 1001 G St. NW., suite 500 West, Washington, DC 20001. The petition proposes to amend the food additive regulations in § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) to provide for the safe use of octadecanoic acid, reaction products with 2-[(2-aminoethyl)amino]ethanol and urea, and the acetate salts thereof, which may be emulsified with ethoxylated tallow alkyl amines, for increasing opacity and thickness, employed prior to the sheetforming operation in the manufacture of paper and paperboard intended for use in contact with dry food.

The agency has determined under 21 CFR 25.32(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: January 22, 1998.

Laura M. Tarantino,

Acting Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 98–3205 Filed 2–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98M–0050]

American Medical Systems Inc.; Premarket Approval of the UroLume™ Endourethral Prostatic for Prostatic Obstruction Secondary to Benign Prostatic Hypertrophy

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by American Medical Systems Inc., Minnetonka, MN, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the UroLume™ Endourethral Prostatic for Prostatic Obstruction Secondary to Benign Prostatic Hypertrophy (BPH). After reviewing the recommendation of the Gastroenterology-Urology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of April 11, 1997, of the approval of the application.

DATES: Petitions for administrative review by March 11, 1998.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James P. Seiler, Center for Devices and Radiological Health (HFZ–470), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2194.

SUPPLEMENTARY INFORMATION: On May 6, 1996, American Medical Systems Inc., Minnetonka, MN 55343, submitted to CDRH an application for premarket approval of the UroLume™ Endourethral Prostatic for Prostatic Obstruction Secondary to BPH. The device is intended to relieve prostatic obstruction secondary to BPH in men at least 60 years of age, or men under 60 years of age who are poor surgical candidates, and whose prostates are at least 2.5 centimeters in length.

On January 16, 1997, the Gastroenterology-Urology Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended approval of the application. On April 11, 1997, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under 21 CFR part 12 of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 11, 1998, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: October 17, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 98–3206 Filed 2–6–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Final Special Factors for Grants for Residency Training and Advanced Education in the General Practice of Dentistry Programs for Fiscal Year 1998

Grants for Residency Training and Advanced Education in the General Practice of Dentistry Programs are authorized under section 749, Title VII of the Public Health Service Act, as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102–408, dated October 13, 1992.

Final Special Factors

In determining the funding of approved applications, the Secretary will consider the following Special Factors:

Community linkages-this special factor may be addressed by the establishment of academic-community linkages, in particular linkages between the training program and underserved populations or communities. Documentation of such linkages should include verification that at least 20% of residents' training time occurs in one or more underserved settings. Memoranda of agreement and letters of support from the community settings involved should be included in the appropriate appendix of the application.

Establishment of new PGY–1 training positions-to address the recommendations of expert panels such as the Institute of Medicine and Pew Commission on Health that a year of post-doctoral training be available for all dental graduates, and that the majority of these positions be in general dentistry programs. This special factor may be addressed by the establishment of new postgraduate year-one (PGY–1) training positions, either through the establishment of a new program or the expansion of an existing program. An

increase in the number of PGY–2 positions does not address the intent of this special factor.

Innovative training methods-examples of ways in which applicants address this special factor might include new sponsor/co-sponsor arrangements; different organizational and administrative structures; expanded private/public sector affiliations and setting linkages; and creative applications for current instructional telecommunications and computer technologies.

Peer reviewers will take into consideration the extent to which proposals address these Special Factors and adjust their individual technical review scores accordingly.

A notice was published in the **Federal Register** at 62 FR 62616 on November 24, 1997, for the proposed special factors for the above-referenced program. No comments were received within the 30 day comment period. Therefore, the special factors remain as proposed.

If additional information is needed, please contact: Bernice Parlak, Division of Associated, Dental and Public Health Professions, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8–101, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6853, FAX: (301) 443–1164.

Dated: January 30, 1998.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 98–3090 Filed 2–5–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

"Low Income Levels" for Health Professions and Nursing Programs

The Health Resources and Services Administration (HRSA) is updating income levels used to identify a "low income family" for the purpose of providing training for individuals from disadvantaged backgrounds under various health professions and nursing programs included in Titles VII and VIII of the Public Health Service Act (the Act).

The Department periodically publishes in the **Federal Register** low income levels used for grants and cooperative agreements to institutions providing training for individuals from disadvantaged backgrounds. A "low income level" is one of the factors taken into consideration to determine if an individual qualifies as a disadvantaged student for purposes of health professions and nursing programs.

The programs under the Act that use "low income levels" as one of the factors in determining disadvantaged backgrounds include the Health Careers Opportunity Program, section 740, the Program of Financial Assistance for Disadvantaged Health Professions Students, section 740 (a)(2)(F), and Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds, section 827. Loans to Disadvantaged Students, section 724, Scholarships for Health Professions Students from Disadvantaged Backgrounds, section 737, Disadvantaged Health Professions Faculty Loan Repayment and Fellowships Program, section 738 were added to Title VII by the Disadvantaged Minority Health Improvement Act of 1990 (Pub. L. 101–527) and are also using the low income levels. Other factors used in determining "disadvantaged backgrounds" are included in individual program regulations and guidelines.

Health Careers Opportunity Program (HCOP), Section 740

This program awards grants to accredited schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, podiatric medicine, chiropractic and public or nonprofit private schools which offer graduate programs in clinical psychology, and other public or private nonprofit health or educational entities to assist individuals from disadvantaged backgrounds to enter and graduate from health professions schools.

Financial Assistance for Disadvantaged Health Professions Students (FADHPS), Section 740 (a)(2)(F)

This program awards grants to accredited schools of medicine, osteopathic medicine, and dentistry to provide financial assistance to individuals from disadvantaged backgrounds who are of exceptional financial need to help pay for their health professions education. The provision of these scholarships shall be subject to section 795 relating to residency training and practice in primary health care.

Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds, Section 827

This program awards grants to public and nonprofit private schools of nursing and other public or nonprofit private entities to meet costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds.

Loans to Disadvantaged Students, Section 724

This program makes awards to certain accredited schools of medicine, osteopathic medicine, dentistry, optometry, pharmacy, podiatric medicine, and veterinary medicine for financially needy students from disadvantaged backgrounds.

Scholarships for Health Professions Students From Disadvantaged Backgrounds, Section 737

This program awards grants to schools of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, allied health, or public health, or schools that offer graduate programs in clinical psychology for the purpose of assisting such schools in providing scholarships to individuals from disadvantaged backgrounds who enrolled (or are accepted for enrollment) as full-time students.

Disadvantaged Health Professions Faculty Loan Repayment and Fellowship Program, Section 738

This program awards grants to repay the health professions education loans of disadvantaged health professionals who have agreed to serve for at least 2 years as a faculty member of a school of medicine, nursing, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, or a school that offers a graduate program in clinical psychology. Section 738 (a) allows loan repayment only for an individual who has not been a member of the faculty of any school at any time during the 18-month period preceding the date on which the Secretary receives the request of the individual for repayment contract (ie., "new" faculty).

The following income figures were taken from low income levels published by the U.S. Bureau of the Census, using an index adopted by a Federal Interagency Committee for use in a variety of Federal programs. That index includes multiplication by a factor of 1.3 for adaptation to health professions and nursing programs which support training for individuals from

disadvantaged backgrounds. The income figures have been updated to reflect increases in the Consumer Price Index through December 31, 1997.

Size of Parents Family [1]	Income Level [2]
1	$10,700
2	13,900
3	16,500
4	21,200
5	25,000
6 or more	28,100

[1] Includes only dependents listed on Federal income tax forms.
[2] Rounded to the nearest $100. Adjusted gross income for calendar year 1997.

Dated: January 30, 1998.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 98–3091 Filed 2–6–98; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: International Cooperative Biodiversity Groups.

Date: March 23–24, 1998.

Time: March 23—9:00 a.m. to Recess; March 24—9:00 a.m. to Adjournment.

Place: Double Tree Hotel—Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Lalita Palekar, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 622, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7575.

Purpose/Agenda: To review, discuss and evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: February 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3094 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Initial Review Group:

Agenda/Purpose: To review, discuss and evaluate grant applications.

Committee Name: Subcommittee G—Education.

Date: March 10–11, 1998.

Time: March 10—8:00 a.m. to Recess; March 11—8:00 a.m. to Adjournment.

Place: Holiday Inn—Georgetown, 2101 Wisconsin Avenue, NW, Washington, DC 20007.

Contact Person: Harvey P. Stein, Ph.D., Scientific Review Administrator, National Cancer Institute, NIH, 6130 Executive Blvd., North, Room 611B, Bethesda, MD 20892–7403, Telephone: 301–496–7481.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: February 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3095 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Puusuant 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) meeting;

Name of SEP: Sleep Academic Award Applications.

Date: March 9, 1998.

Time: 9:00 a.m.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Contact Person: Louise P. Corman, Ph.D., Two Rockledge Center, Room 7180, 6701 Rockledge Drive, Bethesda, MD 20892–7924, (301) 435–0270.

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 Programs Nos. 93.837, National Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of health)

Dated: February 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3096 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed 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 Initial Review Group (IRG) meeting:

Name of IRG: Heart, Lung, and Blood Program Project Review Committee.

Date: March 19–20, 1998.

Time: 8:00 a.m.

Place: Holiday Inn Silver Spring, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

Contact Person: Dr. Jeffrey H. Hurst, Scientific Review Administrator, NHLB/Review Branch, 6701 Rockledge Drive, Rm. 7208, Bethesda, Maryland 20892, (301) 435–0303.

Purpose/Agenda: To review and evaluate program project grant applications.

The meeting will be closed in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and the discussions could reveal confidential trade secrets or

commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(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: January 27, 1998.

LaVerne Y. Stringfield,

Committee Management Office, NIH.

[FR Doc. 98–3099 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Open Meetings

Pursuant to Public Law 92–463, notice is hereby given of the following meetings of the Sleep Disorders Research Advisory Board, and its Education and Sleep Research Subcommittees, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute.

Name of Meeting: Education Subcommittee.

Date: March 10, 1998.

Time: 1:00 p.m.–4:30 p.m.

Place: Natcher Building (45), Conference Room D, 45 Center Drive, Bethesda, Maryland 20892.

Purpose/Agenda: To discuss education related priorities and programs.

Name of Meeting: Sleep Research Subcommittee.

Date: March 10, 1998.

Time: 7:00 p.m.–10:00 p.m.

Place: Bethesda Hyatt Regency Hotel, Susquehanna/Severn Conference Room, One Bethesda Metro Center, Bethesda, Maryland 20892.

Purpose/Agenda: To review sleep research priorities and programs.

Name of Meeting: Sleep Disorders Research Advisory Board.

Date: March 11, 1998.

Time: 9:00 p.m.–4:00 p.m.

Place: Natcher Building (45), Conference Room D, 45 Center Drive, Bethesda, Maryland 20892.

Purpose/Agenda: To discuss recommendations on the implementation and evaluation of the National Center on Sleep Disorders Research programs.

Attendance by the public will be limited to space available.

Individuals who plan and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. James P. Kiley, Executive Secretary and Director, National Center on Sleep Disorders Research, NHLBI, Two Rockledge Center, Suite 10018, 6701 Rockledge Drive, MSC 7952, Bethesda, Maryland 20892–7952, (301) 435–0199, will furnish meeting and member information.

Dated: January 27, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3100 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute on Drug Abuse (NIDA) Special Emphasis Panel meetings.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: NIDA Special Emphasis Panel (Organization and Management of Drug Abuse Treatment Services).

Date: March 4, 1998.

Time: 8:30 a.m.

Place: Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Raquel Crider, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–9042.

Name of Committee: NIDA Special Emphasis Panel (Strategic Program for Innovative Research on Cocaine (and other Psychomotor Stimulants) Addiction Pharmacotherapy).

Date: March 18–19, 1998.

Time: 8:30 a.m.

Place: Holiday Inn Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20852.

Contact Person: Khursheed Asghar, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

The meetings will be closed in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5. U.S.C. The 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, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: January 30, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3097 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed 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 Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel Meetings:

Name of Sep: ZDK1 GRB BC1.

Date: February 12, 1998.

Time: 3:00 pm.

Place: Room 6as-25S, Natcher Building, NIH (Telephone Conference Call).

Contact: Ned Feder, Ph.D., Review Branch, DEA, NIDDK, Natcher Building, Room 6as–25S, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (303) 594–8890.

Purpose/Agenda: To review and evaluate contract proposals.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of Sep: ZDK1 GRB4 C1B.

Date: February 20, 1998.

Time: 3:00 pm.

Place: Room 6as-37A, Natcher Building, NIH (Telephone Conference Call).

Contact: William Elzinga, Ph.D., Review Branch, DEA, NIDDK, Natcher Building, Room 6as–37A, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8895.

Purpose/Agenda: To Review and evaluate contract proposals.

These meetings 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: February 2, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3098 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting of the Literature Selection Technical Review Committee

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Literature Selection Technical Review Committee, National Library of Medicine (NLM), on February 5–6, 1998, convening at 9 a.m. on February 5 and at 8:30 a.m. on February 6 in the Board Room of the National Library of Medicine, Building 38, 8600 Rockville Pike, Bethesda, Maryland.

The meeting on February 5 will be open to the public from 9 a.m. to approximately 10:30 a.m. for the discussion of administrative reports and program developments. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Lois Ann Colaianni at (301) 496–6921 two weeks before the meeting.

In accordance with provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., and section 10 of Public Law 92–463, the meeting will be closed on February 5 from 10:30 a.m. to approximately 5 p.m. and on February 6 from 8:30 a.m. to adjournment for the review and discussion of individual journals as potential titles to be indexed by the National Library of Medicine.

The presence of individuals associated with these publications is likely to significantly frustrate implementation of proposed action by NLM by hindering fair and open discussion and evaluation of individual journals by the Committee members.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Mrs. Lois Ann Colaianni, Scientific Review Administrator of the Committee, and Associate Director, Library Operations, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, telephone number: (301) 496–6921, will provide a summary of the meeting, rosters of the committee members, and other information pertaining to the meeting.

Dated: February 3, 1998.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 98–3093 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Method of Determining the Presence of Functional p53 in Mammalian Cells

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i) that the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive world-wide license to practice the inventions embodied in U.S. Patent Applications SN 07/974,960; 08/288,872 which issued as U.S. Patent 5,616,463; 08/432,176 and corresponding foreign patent applications entitled, "Method of Determining the Presence of Functional p53 in Mammalian Cells" to Chrysallis Research Laboratories, San Francisco, CA. The patent rights in these inventions have been assigned to the United States of America and Johns Hopkins University.

The prospective exclusive license field of use may be limited to: FDA approved in-vitro diagnostic kit for cancer.

DATES: Only written comments and/or applications for a license which are received by NIH on or before May 11, 1998 will be considered.

ADDRESSES: Requests for copies of the patent applications, inquiries, comments and other materials relating to the contemplated licenses should be directed to: Joseph K. Hemby, Jr., J.D., Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; Telephone: (301) 496–7735 ext. 265; Facsimile: (301) 402–0220. A signed Confidentiality Agreement will be required to receive copies of the patent applications.

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless within ninety (90) days from the date of this published notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The invention describes a specific gene, GADD45, whose expression is dependent on the presence of functional p53 in cells and tumors, as well as methods by which the presence of this gene may be detected. It also describes a diagnostic kit utilizing a nucleic acid sequence capable of binding functional p53, which is then measured to detect the presence of p53.

Applications for a license in the exclusive field of use filed in response to this notice will be treated as objections to the grant of the contemplated licenses. Comments and objections submitted to this notice will not be made available for public inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: January 30, 1998

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 98–3101 Filed 2–6–98; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Meetings

Pursuant to Public Law 92–463, notice is hereby given of the meetings of the Substance Abuse and Mental Health Services Administration's (SAMHSA's) Advisory Committee for Women's Services and Center for Substance Abuse Prevention's Drug Testing Advisory Board in February and March, 1998.

The meeting of the Advisory Committee for Women's Services will include a discussion of and update on policy and program issues relating to women's substance abuse and mental health service needs at SAMHSA, including the SAMHSA Fiscal Year 1998 budget and the President's Fiscal Year 99 budget; Knowledge Development and Application Grants; and future women's policy and program directions at SAMHSA.

Public comments are welcome. Please communicate with the individual listed

as Contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

A summary of the meeting and/or a roster of committee members may be obtained from: Pamela M. Perry, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184, e-mail: pmcdonne@samhsa.gov.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date(S): February 23–24, 1998.

Place: Twinbrook Room, DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Open: February 23, 1998, 9:00 a.m. to 5:00 p.m.; February 24. 1998, 8:30 a.m. to 12:00 p.m.

Contact: Pamela M. Perry, Room 13–99, Parklawn Building, Telephone (301) 443–5184.

The first day (March 10) of the Drug Testing Advisory Board (DTAB) meeting will be open and will include a roll call, general announcements, and a discussion of various program , procedural, and technical issues. The preliminary agenda for the open session includes, but is not limited to. the following topics: brief review of the new opiate testing levels, FDA policy on home collection/test kits, a new policy for testing adulterated specimens, proposed policy for reporting results electronically, and testing alternative specimens and technologies. Public comments are welcome. Please communicate with the individual listed as Contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

The second day (March 11) of the DTAB meeting involves the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, the second day of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c) (2), (4), and (6) and 5 U.S.C. App. 2, section 10(d).

An agenda for this meeting and a roster of board members may be obtained from: Ms. Giselle Hersh, Division of Workplace Programs, Room 12A–54, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–6014.

Substance program information may be obtained from the Contact whose name and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: March 10–11, 1998

Place: Gaithersburg Hilton, 620 Perry Parkway, Gaithersburg, MD 20877.

Open: March 10, 1998, 8:30 a.m.—4:00 p.m.

Closed: March 11, 1998, 8:30 a.m.—4:00 p.m.

Contact: Donna M. Bush, Ph.D., Executive Secretary, Telephone: (301) 443–6014 and FAX:(301) 443–3031.

Dated: February 3, 1998.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 98–3156 Filed 2–6–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Wilder Sand Quarry Project, Santa Cruz County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that Graniterock Company (Graniterock) of Watsonville, California, has applied to the Fish and Wildlife Service for an incidental take permit pursuant to section 10(a)(1)(B) the Endangered Species Act of 1973, as amended. The proposed 30-year permit would authorize the incidental take of the federally listed as threatened California red-legged frog (*Rana aurora draytonii*) during sand mining and reclamation at the Wilder Sand Quarry in Santa Cruz County, California.

This notice announces the availability of the permit application and the environmental assessment. The permit application includes the habitat conservation plan for the California red-legged frog on the Wilder Sand Quarry project and an implementing agreement. The plan fully describes the proposed project and the measures Graniterock would undertake to minimize and mitigate project impacts to the California red-legged frog.

Comments are specifically requested on the appropriateness of the "No Surprises" assurances contained in this application (section 12.3.a of the implementing agreement). All comments received, including names and addresses, will become part of the administrative record and may be made available to the public.

DATES: Written comments should be received on or before March 11, 1998.

ADDRESSES: Comments should be addressed to Diane K. Noda, Field Supervisor, Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, California 93003. Written comments may also be sent by facsimile to (805) 644–3958.

FOR FURTHER INFORMATION CONTACT: David Pereksta, Fish and Wildlife Biologist, at the above address; or telephone (805) 644–1766).

SUPPLEMENTARY INFORMATION:

Availability of Documents

Individuals wishing copies of the documents should immediately contact the Service's Ventura Fish and Wildlife Office at the above referenced address or telephone. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

Background Information

Graniterock proposes to resume mining and initiate reclamation at the Wilder Sand Quarry. The site is known to support populations of the California red-legged frog. Graniterock has an existing mining permit from the County of Santa Cruz (County) to mine the proposed area, as well as an approved reclamation plan. The proposed project consists of reclaiming areas where past mining occurred, mining in a new area, and final reclamation.

At Wilder Sand Quarry, Graniterock mines sand from upland areas and washes it using well water that has been reclaimed and recirculated onsite since 1967. Use Permit 2791–U, issued by the County in May 1967, allows Graniterock to: (a) Remove, process, store, transport, and sell natural materials, and (b) install and operate machinery for such removal, storage, transportation, and sale, including covered belt conveyor and rail loading facilities.

Graniterock possesses a vested right to mine the entire 310 acres identified in its use permit. Graniterock's operations also are subject to the requirements of the California Surface Mining and Reclamation Act (Reclamation Act) and the County mining ordinance, and to permits, conditions, and agreements with other relevant agencies.

In compliance with conditions of the Reclamation Act, Graniterock idled operations at its Wilder Sand Quarry prior to June 30, 1990. On December 11,

1996, the County, acting as lead agency for the State of California, certified the Wilder Environmental Impact Report, and, as the lead agency for the Reclamation Act, approved the Wilder reclamation plan, allowing the operation to be reopened. Graniterock now needs only an incidental take permit for the California red-legged frog from the Service to recommence its operations.

Graniterock has two project objectives. The first objective is to reclaim, to Reclamation Act standards, areas disturbed during the sand mining activities conducted from 1967 to 1990. These areas are currently planted with erosion control grasses that will be replaced with native California grasses. The process will involve a program of planting and seasonally controlled goat grazing to achieve a predominance of the native California grasses. This process will have no impact on the California red-legged frog population. The second objective is to mine and process sand, and to a lesser extent clay, from the 20-acre site approved for sand mining on December 11, 1996, and to revegetate mined areas concurrently in accordance with the requirements of the Reclamation Act to minimize areas of disturbed uplands.

Graniterock needs an incidental take permit from the Service because listed wildlife species are protected against "take" pursuant to section 9 of the Endangered Species Act. That is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). The Service, however, may issue permits to take listed animal species if such taking is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened species are at 50 CFR 17.32.

The Service proposes to issue a 30-year permit to Graniterock for incidental take of California red-legged frogs from mining and reclamation activities on approximately 125 acres of the 310-acre Wilder Sand Quarry. California red-legged frogs have been found in 10 of the 13 artificial ponds within the Wilder Sand Quarry project area. California red-legged frogs also have been found south of the project area in three agricultural ponds and a lagoon.

Graniterock's habitat conservation plan contains measures to minimize and mitigate the impacts of the sand mining and reclamation to the California red-legged frog and its habitat and to further the conservation of the species. For phase 1 of the proposed project (reclamation of previously mined areas), Graniterock will: implement all mitigation measures described in the habitat conservation plan for the projected future incidental take of the California red-legged frog during the initial project stage, concurrent with the reuse of the site for sand mining; establish a 10.5-acre habitat compensation area, which will have a restricted covenant placed on the title; revise the reclamation plan prepared in compliance with the Reclamation Act to include characteristics of California red-legged frog habitat in revegetation efforts; implement a long-term monitoring program to ensure that mitigation measures are successful and to initiate remediation measures, if necessary; implement measures to control bullfrogs and non-native fish species; implement a worker education program; conduct preconstruction surveys in areas scheduled for temporary disturbance during reclamation activities; remove excess sediment and vegetation from sediment ponds to retain the characteristics of California red-legged frog habitat; and prohibit the use of chemical weed control in aquatic systems.

For phase 2 of the proposed project (mining with concurrent and final reclamation), Graniterock will: modify the mining plan to minimize disturbance of riparian corridors, including removal of an existing road, creation of 50-foot-wide buffer zones, and installation of fencing to keep California red-legged frogs off the access road; remove excess sediment and vegetation from sediment ponds to retain characteristics of California red-legged frog habitat; conduct preconstruction surveys in areas scheduled for temporary disturbance during mining and reclamation operations; prohibit the use of chemical weed control in aquatic systems; implement a long-term monitoring program to ensure that mitigation measures are successful and initiate additional remediation measures, if necessary; retain existing sediment ponds after mining is completed as part of Graniterock's wetland banking program; and provide the Service with 20 years of onsite monitoring of California red-legged frogs by the time that Graniterock completes its mandated post-mining reclamation activities.

The habitat conservation plan and implementing agreement also define measures to ensure that the elements of the plan are implemented in a timely manner. Funding sources for implementation of the plan, actions to be taken should unforeseen events occur, alternatives to the proposed project, and other measures required by the Service are also discussed. The implementing agreement, reports documenting the presence of California red-legged frogs in the project area, and other pertinent supporting documents are included as appendices of the plan.

Environmental Assessment

The environmental assessment considers the consequences of the proposed action, a no action alternative, and a mining with camping as the end use alternative. A no take alternative was not feasible because the widespread distribution of the California red-legged frog on site precluded redesigning the project to completely avoid take while achieving the mining goals. The proposed action, issuance of an incidental take permit, would require Graniterock to implement its habitat conservation plan (see Background for a description of the proposed action).

The no action alternative would be implemented if the Service did not issue a section 10(a)(1)(B) permit for the proposed project. However, if Graniterock does not obtain an incidental take permit, they or the County would reclaim the site using bond monies posted by Graniterock in accordance with the Reclamation Act. Therefore, this alternative also includes the assumption that the site would eventually be reclaimed. The end use of the reclaimed site is unknown under this alternative. For example, Graniterock may develop a mitigation bank on site, or the site could be used as open space that would become part of the surrounding Wilder Ranch State Park and would be used for passive recreation such as hiking, bicycling, and nature walking.

Under the mining with camping as end use alternative, mining activities would be the same as described for the proposed action; however, this alternative would result in camping, rather than open space, as an end use of the site. This alternative also would require the issuance of an incidental take permit for the California red-legged frog. The proposed end use of the Wilder Sand Quarry under this alternative includes campgrounds, an environmental educational center, and various support facilities. Graniterock would continue its sand harvesting operation and campgrounds would be operated concurrently with the mining.

This notice is provided pursuant to section 10 (a)(1)(B) of the Endangered Species Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application

meets the requirements of law. If the Service determines that the requirements are met, a permit will be issued for the incidental take of the listed species. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: January 29, 1998.

Thomas Dwyer,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 98–3153 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–01; CACA 7912, CACA 8153]

Public Land Order No. 7200, and one Opening Order, California; Corrections

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction.

SUMMARY: This notice corrects the following two orders:

(1) Public Land Order No. 7200, which was published on June 12, 1996 at page 29758 (61 FR 29758), as FR Doc. 96–14802:

On page 29758, in the third column, under T. 46 N., R. 7 W., which reads "Sec. 30, E½E½SE¼ and NW¼NE¼SE¼." is hereby corrected to read "Sec. 36, E½E½SE¼ and NW¼NE¼SE¼."

(2) Order Providing for Opening of Lands Subject to Section 24 of the Federal Power Act, which was published on July 24, 1997 at page 39861 (62 FR 39861), as FR Doc. 97–19411):

On page 39861, in the second column, and in paragraph 4 under T. 48 N., R. 5 W., which reads "Sec. 34, W½NE¼, NE¼NW¼, S½SW¼, and SE¼" is hereby corrected to read "Sec. 34, W½NE¼, NW¼NW¼, S½SW¼, and SE¼"

Dated: February 3, 1998.

Duane Marti,

Acting Chief, Branch of Lands.

[FR Doc. 98–3192 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–942–4212–13; UTU–76188]

Filing of State Indemnity Selection Application; Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On December 2, 1996, the State of Utah filed a state indemnity selection application, UTU–76188, to have 5,025.94 acres of federally-owned land and interest in land transferred to the State of Utah pursuant to section 2275 and 2276 of the Revised Statutes, as amended, (43 U.S.C. 851–852).

FOR FURTHER INFORMATION CONTACT: Angela D. Williams, Bureau of Land Management, Utah State Office, 324 South State Street, P.O. Box 45155, Salt Lake City, Utah 84145–0155, 801–539–4107.

SUPPLEMENTARY INFORMATION: Of the 5,025.94 acres filed under this application: 525.05 acres were rejected due to inconsistency with planning; and 1121.36 acres were rejected due to prior segregation and conveyance. The lands containing the federally-owned lands and interests in land included in this application are described as follows:

Salt Lake Meridian, Utah

T. 35 S., R. 4½ W.,
Sec. 9, Lots 3, 4, SE¼;
Sec. 16, Lots 1 thru 4, E½
Sec. 19, Lots 1, 2, E½NW¼, NE¼
Sec. 30, Lots 2, 3, 4, E½W½, E½.
T. 35 S., R. 5 W.,
Sec. 24, NE¼
Sec. 25, S½NE¼, SE¼, SE¼SW¼.
T. 36 S., R. 11 E.,
Sec. 15, All;
Sec. 29, SW¼, W½SE¼.
T. 37 S., R. 11 E.,
Sec. 5, Lots 1 thru 4, S½N½, S½.
The lands described contain 3,379.53 acres located in Garfield County.

The filing of this application segregates the federally-owned lands and interests in land from settlement, sale, location, or entry under the public land laws, including the mining laws but not the mineral leasing act. This segregative effect shall terminate upon the issuance of a document of conveyance to these federally-owned lands and interests in lands, or upon the publication in the **Federal Register** of a notice of termination of the segregation, or upon the expiration of two years from the date of the filing of this application, whichever occurs first.

Teresa L. Catlin

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 98–3164 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[UT–930–08–1020–00]

Notice of Proposed Supplementary Rule

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed supplementary rule to require the use of certified noxious weed-free forage on Bureau of Land Management (BLM)-administered lands; in Utah. Prevention of the spread of noxious weeds on BLM-administered lands in Utah.

SUMMARY: The State Director of the Bureau of Land Management (BLM) in Utah is proposing a requirement that all visitors and permittees using BLM lands in Utah use certified noxious weed-free hay, straw, or mulch when visiting the public lands. This requirement will affect visitors who use hay, straw or mulch on the BLM-administered lands in Utah such as: recreationists using pack and saddle stock, ranchers with grazing permits, outfitters, guides, and permittees, lessees or contractors who use straw or other mulch for reseeding purposes. These individuals or groups would be required to purchase certified noxious weed-free forage products, or use other approved products such as processed grains and pellets while on BLM-administered lands in Utah.

DATES: Comments concerning the proposal should be received on or before March 11, 1998.

ADDRESSES: Send written comments concerning the Utah requirement to: State Director (930), USDI, Bureau of Land Management, P.O. Box 45155, Salt Lake City, UT 84145–0155. Electronic mail comments will also be received via: inet:lmaxfiel@ut.blm.gov.

FOR FURTHER INFORMATION CONTACT: Larry Maxfield, Rangeland Management Specialist, Biological Resources, Division of Natural Resources, Bureau of Land Management, Utah State Office, P.O. Box 45155, Salt Lake City, UT 84145–0155, or phone (801–539–4059).

SUPPLEMENTARY INFORMATION: Noxious weeds are a serious problem in the western United States. Estimates of the rapid spread of weeds in the west

include 2,300 acres per day on BLM-administered lands and 4,500 acres per day on all western public lands. Species like Leafy Spurge, Squarrose Knapweed, Spotted Knapweed, Russian Knapweed, Musk Thistle, Dalmatian Toadflax, Purple Loosestrife, and many others are alien to the United States and have no natural enemies to keep their populations in balance. Consequently, these undesirable weeds invade healthy ecosystems, displace native vegetation, reduce species diversity, and destroy wildlife habitat. Widespread infestations lead to soil erosion and stream sedimentation. Furthermore, noxious weed invasions weaken revegetation efforts, reduce domestic and wild ungulates' grazing capacity, occasionally irritate public land users by aggravating allergies and other ailments, and threaten federally-protected plants and animals.

To curb the spread of noxious weeds, a growing number of western states have jointly developed noxious weed-free forage certification standards, and, in cooperation with various federal, state, and county agencies, passed weed management laws. Utah BLM's Resource Advisory Council developed guidelines requiring only hay cubes, hay pellets made from weed free hay, or certified weed-free hay to be fed on BLM lands. This guideline was approved by both the Utah BLM State Director and the Secretary of the Interior in May, 1997. Because hay and other forage products containing noxious weed seed are part of the infestation problem, Utah has developed a state hay inspection-certification-identification process, participates in a regional inspection-certification-identification process and encourages forage producers in Utah to grow noxious weed-free products.

The Intermountain and Rocky Mountain Regions of the United States Forest Service, Department of Agriculture, have implemented similar policies for National Forest lands in 1994. The BLM in Colorado implemented a standard stipulation on all Special Recreation Permits in 1994 requiring holders of those permits to use certified weed-free products. This proposal will provide a standard regulation for all users of BLM lands in Utah and will provide for coordinated management with National Forest lands across jurisdictional lines.

In cooperation with the State of Utah and the U.S. Forest Service, Utah BLM is proposing a ban on hay, straw or mulch that has not been certified weed free. This proposal includes a public information plan to ensure that: (1) this ban is well publicized and understood; and (2) BLM visitors and land users will know where they can purchase state-certified hay or other products.

The supplementary rules will not appear in the Code of Federal Regulations.

For the reasons stated above, under the authority of 43 CFR 8365.1–5, the Utah State Office, BLM, proposes supplementary rules to read as follows:

Supplementary Rules to Require the Use of Certified Noxious Weed-Free Forage on Bureau of Land Management-Administered Lands in Utah

(a)(1) To prevent the spread of weeds on BLM-administered lands in Utah, effective March 6, 1998, all BLM lands within the State of Utah, at all times of the year, shall be closed to possessing or storing hay, straw, or mulch that has not been certified as free of prohibited noxious weed seed.

(2) Certification will comply with Regional "Forage Certification program for noxious weed seed-free forage and noxious weed-free forage", jointly developed by the States of Utah, Idaho, Montana, Colorado, Wyoming, New Mexico, Arizona, and Nevada. A brochure called Q & A about the Regional Forage Certification Program for Noxious Weed Seed-Free Forage and Noxious Weed-Free Forage is available.

(3) The following persons are exempt from this order: anyone with an unexpired permit signed by BLM's authorized officer at the Field Office specifically authorizing the prohibited act or omission within that Field Office Area.

(b) Any person who knowingly and willfully violates the provisions of these supplemental rules regarding the use of noncertified noxious weed-free hay, straw, or mulch when visiting Bureau of Land Management-administered lands in Utah, without authorization required, may be commanded to appear before a designated United States Magistrate and may be subject to a fine of no more than $1,000 or imprisonment of not more than 12 months, or both, as defined in 43 United States Code 1733(a).

Dated: January 30, 1998.

G. William Lamb,

Utah State Director.

[FR Doc. 98–3165 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–08–P

DEPARTMENT OF THE INTERIOR

National Park Service

60-day Notice of Intention To Request Clearance of Collection of Information—Opportunity for Public Comment

AGENCY: Department of the Interior, National Park Service, and 5 Units of the National Park System.

ACTION: Notice and request for comments.

SUMMARY: The University of Vermont is proposing to conduct four projects at up to five parks during FY 98:

NPS unit	Estimated number of responses	Estimated burden hours
(1) Yosemite National Park	1200	600
(2) Statue of Liberty/Ellis Island National Monuments	800	400
(3) Golden Gate National Recreation Area:		
(A) Alcatraz Island	500	250
(B) Muir Woods	500	250
Totals	3000	1500

Under provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) is soliciting comments on the need for gathering the information in the proposed visitor studies listed above. The NPS is also asking for comments on the practical utility of the information being gathered; the accuracy of the burden hour estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden to respondents, including the use of automated information collection techniques or other forms of information technology.

The NPS goal in conducting these surveys is to identify characteristics, use patterns, perceptions, preferences, and opinions of visitors about management and services in these parks. In addition, each project will identify indicators and standards of quality for the visitor experience.

Results of all of the surveys will be used by NPS managers in their ongoing planning and management activities to improve visitor services, protect park resources, and better serve the park's current and potential future visitors.

DATES: Public comments will be accepted on or before April 10, 1998.

SEND COMMENTS TO: Dr. Robert E. Manning, Professor, School of Natural Resources, 356 Aiken Center, University of Vermont, Burlington, VT 05405. Phone (802) 656–2684.

FOR FURTHER INFORMATION CONTACT: Dr. Robert E. Manning. Voice (802) 656–2684; Fax (802) 656–2623; Email;rmanning@nature.snr.uvm.edu.

SUPPLEMENTARY INFORMATION:

Bureau Form Number: None.

OMB Number: To be requested.

Expiration Date: To be requested.

Type of Request: Request for new clearance.

Description of Need: The National Park Service needs information concerning visitor demographics and visitor opinions about the service that the National Park Service provides. The NPS also needs information about indicators and standards of quality for the visitor experience. The proposed information to be collected from visitors in these parks is not available from other existing records, sources, or observations.

Automated Data Collection: AT the present time, there is no automated way to gather this information, since it includes asking visitors to reach to management and services to park. The intrusion on visitors is minimized by contacting them only once during their visit to the park.

Description of Respondents: A sample of visitors to each park or park unit.

Estimated Average Number of respondents: 1200 visitors to Yosemite National Park, 800 visitors to Statute of Liberty/Ellis Island National Monuments, and 500 visitors to each of two units of the Golden Gate National Recreation Area.

Estimated Average Number of Responses: Each respondent will respond only one time, so the number of responses will be the same as the number of respondents.

Estimated Average Burden Hours Per Respondent: 30 minutes.

Frequency of Response: 1 time per respondent.

Estimated Annual Reporting Burden: 600 Burden hours at Yosemite National Park, 400 burden hours at Statute of Liberty/Ellis Island National Monuments Visitor Surveys, and 500 burden hours total for the two units of the Golden Gate National Recreation Area.

Diane M. Cooke,

Information Collection Clearance Officer, WASO Administrative Program Center, National Park Service.

[FR Doc. 98–3127 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

Solicitation of Applications

AGENCY: National Park Service, Interior.

ACTION: Solicitation of applications

SUMMARY: Pursuant to 16 U.S.C. 5401, the National Park Service is soliciting applications for the National Maritime Heritage Grants Program.

DATES: All application packages must be postmarked by the application deadline, Friday, April 17, 1998.

ADDRESSES: Application information is available from: National Park Service, National Maritime Initiative (2280), 1849 C Street N.W. Room NC400, Washington, D.C. 20240, Attention: National Maritime Heritage Grants Program.

FOR FURTHER INFORMATION CONTACT: Kevin Foster, National Maritime Initiative, National Park Service, U.S. Department of the Interior, 202–343–5969, 202–343–1244 (fax).

SUPPLEMENTARY INFORMATION: Public Law 103–451 (16 U.S.C. 5401) established within the Department of the Interior the National Maritime Heritage Grants Program to help State and local governments and private nonprofit organizations carry out their maritime heritage activities. The Grants Program is a national, competitive matching grants program which provides funds for Maritime Heritage Education Projects and Maritime Heritage Preservation Projects designed to reach a broad audience and enhance public awareness and appreciation for the maritime heritage of the United States.

Maritime Heritage Education Projects provide information about the maritime heritage of the United States and include, but are not limited to, curation, instruction, and interpretation of maritime heritage collections, traditional maritime skills, historic maritime properties, and maritime history topics. Maritime Heritage Preservation Projects encompass all facets of preservation planning and treatment for historic maritime properties (which include maritime archeological sites).

This year, grants will be awarded for a variety of Education and Preservation Projects. Awards will range from $2,500 to $50,000. However, due to limited funds, greater priority will be given to activities that raise awareness of our maritime heritage, increase involvement in maritime heritage activities, plan for future maritime heritage efforts, and help to maintain what is already preserved.

Barry Mackintosh,

for Chief Historian.

[FR Doc. 98–3198 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before January 31, 1998. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, D.C. 20013–7127. Written comments should be submitted by February 24, 1998.

Carol D. Shull,

Keeper of the National Register.

ARIZONA

Gila County

Theodore Roosevelt Dam National Register District, Linear area along the Shore of Lake Roosevelt, from Dam to Canal intake, Roosevelt vicinity, 98000144

GEORGIA

Sumter County

Morgan Farm, The, 770 Old Dawson Rd., Smithville vicinity, 98000145

MASSACHUSETTS

Barnstable County

Central Fire Station, 399 Main St., Falmouth, 98000146

Falmouth Pumping Station, Pumping Station Rd., Falmouth, 98000148

Poor House and Methodist Cemetery, 744 Main St., Falmouth, 98000147

Suffolk County

Eagle Hill Historic District, Roughly bounded by Border, Lexington, Trenton, and Falcon Sts., Boston, 98000149

MICHIGAN

Oakland County

Lathrup Village Historic District, Roughly bounded by city limit, Red River Dr., I–696, Middlesex Ave., Meadowbrook Way, and Margate Ave., Lathrup Village, 98000150

MINNESOTA

Hennepin County

Semple, Anne C. and Frank B., House, 100–104 W. Franklin Ave., Minneapolis, 98000151

Norman County

Ada Village Hall, 404 W. Main St., Ada, 98000154

Stearns County

St. Cloud Commercial Historic District, Roughly along W. St. Germain St., between Fifth Ave. and Tenth Ave., St. Cloud, 98000153

Winona County

Winona Masonic Temple, 255 Main St., Winona, 98000152

MONTANA

Deer Lodge County

Anaconda Commercial Historic District (Anaconda MPS) Roughly bounded by Commercial Ave., Main St., Chestnut St. and E. Park Ave., Anaconda, 98000155

Goosetown Historic District (Anaconda MPS) Roughly bounded by Cedar St., Monroe St., Birch Hill Allotment, and E. Commercial Ave., Anaconda, 98000156

NEW YORK

Tioga County

Blewer Farm (Newark MPS) 184 and 226 Blewer-Mead Rd., Newark Valley, 98000166

Clinton, Morris, House (Newark MPS) 225 Zimmer Rd., Newark Valley vicinity, 98000162

Hope Cemetery and Mauseleum (Newark MPS) Main St., at the town limits, Newark Valley, 98000164

Knapp House (Newark MPS) 10 Rock St., Newark Valley, 98000159

Lipe Farm (Newark MPS) 3462 Sherry Lipe Rd., Newark Valley vicinity, 98000160

Settle, John, Farm (Newark MPS) 1054 Settle Rd., Newark Valley, 98000161

West Newark Congregational Church and Cemetery (Newark MPS) Jct. of W. Creek Rd. and W. Newark Cross Rd., Newark Valley vicinity, 98000165

West Newark School House (Newark MPS) Jct. of W. Creek Rd. and W. Newark Cross Rd., Newark Valley vicinity, 98000163

NORTH CAROLINA

Halifax County

St. Mark's Episcopal Church, 204 S. King St., Halifax, 98000158

Mecklenburg County

Charlotte Coca-Cola Bottling Company Plant. Former, 1401–1409 W. Morehead St., Charlotte, 98000157

WISCONSIN

Dane County

Fourth Lake Ridge Historic District, Roughly bounded by Lake Mendota, N. Brearly, E. Johnson, and N. Franklin Sts., Madison, 98000167

Little Norway, 3576 CTH JG, Blue Mounds, 98000169

Nakoma Historic District, Roughly bounded by Odana Rd., Mantou Wy., Mowhack Dr., and Whedona Dr., Madison, 98000168

A Request for Removal has been received for:

PENNSLYVANIA

Pike County

Shanna House, US 209, Dingman Township, 85000075

[FR Doc. 98–3155 Filed 2–6–98; 8:45 am]

BILLING CODE 4310–70–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Nixon Presidential Historical Materials; Opening of Materials

AGENCY: National Archives and Records Administration.

ACTION: Notice of opening of materials.

SUMMARY: This notice announces the opening of additional files from the Nixon Presidential historical materials. Notice is hereby given that, in accordance with section 104 of Title I of the Presidential Recordings and Materials Preservation Act ("PRMPA", 44 U.S.C. 2111 note) and 1275.42(b) of the PRMPA Regulations implementing the Act (36 CFR part 1275), the agency has identified, inventoried, and prepared for public access integral file segments among the Nixon Presidential historical materials.

DATES: The National Archives and Records Administration (NARA) intends to make these materials described in this notice available to the public beginning March 18, 1998. In accordance with 36 CFR 1275.44, any person who believes it necessary to file a claim of legal right or privilege concerning access to these materials should notify the Archivist of the United States in writing of the claimed right, privilege, or defense before March 11, 1998.

ADDRESSES: The materials will be made available to the public at the National Archives at College Park research room, located at 8601 Adelphi Road, College Park, Maryland beginning at 8:45 a.m. Researchers must have a NARA researcher card, which they may obtain when they arrive at the facility.

Petitions asserting a legal or constitutional right or privilege which would prevent or limit access must be sent to the Archivist of the United States, National Archives at College Park, 8601 Adelphi Road, College Park, Maryland 20740–6001.

FOR FURTHER INFORMATION CONTACT: Karl Weissenbach, Acting Director, Nixon Presidential Materials Staff, 301–713–6950.

SUPPLEMENTARY INFORMATION: The integral file segments of textual materials to be opened on March 18, 1998 consist of 68.59 cubic feet.

The White House Central Files Unit is a permanent organization within the White House complex that maintains a central filing and retrieval system for the records of the President and his staff. This is the fourteenth of a series of openings of Central Files: the previous openings were on December 1, 1986; March 22, 1988; December 9, 1988; July 17, 1989; December 15, 1989; August 22, 1991; February 19, 1992; July 24, 1992; May 17, 1993; July 15, 1993; January 12, 1995; December 19, 1995; and March 26, 1997.

Some of the materials designated for opening on March 18, 1998, are from the White House Central Files, Subject Files. The Subject Files are based on an alphanumerical file scheme of 61 primary categories. Listed below are the integral file segments from the White House Central Files, Subject Files that will be made available to the public on March 18, 1998.

Subject category	Volume (cubic feet)
Federal Government FG 299 Interagency Committee to Review the U.S. International Air Transportation Policy. FG 300 Commission on Bankruptcy Laws of the United States. FG 301 National Railroad Passenger Corporation. FG 302 Council on International Economic Policy.	4.39

Subject category	Volume (cubic feet)
FG 303 Western Interstate Nuclear Board	
FG 304 Securities Investor Protection Corporation.	
FG 305 National Tourism Resources Review Commission.	
FG 306 Commission on American Shipbuilding.	
FG 307 Federal Regional Councils (1969–1970) Ohio River Basin Commission (1970–1974).	
FG 308 Commission on Marihuana and Drug Abuse.	
FG 309 Plymouth-Provincetown Celebration Commission.	
FG 310 Special Railway Dispute Commission.	
FG 311 Emergency Railway Dispute Panel.	
FG 312 National Commission on Materials Policy.	
FG 313 Occupational Safety and Health Review Commission.	
FG 314 Advisory Council on Intergovernmental Personnel Policy.	
FG 315 Construction Industry Stabilization Committee.	
FG 316 Interagency Committee on Construction.	
FG 317 Inter-Departmental Committee on Internal Security.	
FG 318 National Council on Quality in Education.	
FG 319 Commission on Highway Beautification.	
FG 320 National Commission on State Workmen's Compensation Laws.	
FG 321 National Parks Centennial Commission.	
FG 322 Advisory Committee on Federal Pay.	
FG 323 Susquehanna River Basin Commission.	
FG 324 Low-Emission Vehicle Certification Board.	
FG 326 Interdepartmental Council to Coordinate all Federal Juvenile Delinquency Programs.	
FG 328 Advisory Panel on South Asian Relief Assistance.	
FG 329 President's Advisory Panel on Timber and the Environment.	
FG 330 Cabinet Committee on International Narcotics Control.	

One file group from the Staff Member and Office Files will also be made available to the public. These consist of materials that were transferred to Central Files but were not incorporated into the Subject Files. Listed below is the Staff Member and Office File that will be made available to the public on March 18, 1998.

File group	Volume (cubic feet)
Oliver F. Atkins	8.7

In accordance with the provisions of Executive Order 12958, several series within the National Security Council files were systematically reviewed and will be made available to the public on March 18, 1998. In addition, a number of documents which were previously withheld from public access have been re-reviewed for release and or declassified under the provisions of Executive Order 12958, or in accordance with 36 CFR 1275.56 (Public Access Regulations). These documents will also be publicly available on March 18, 1998.

File group	Volume (cubic feet)
National Security Council Files series	46.0
Previously restricted materials	9.5

Public access to some of the items in the file segments listed in this notice will be restricted as outlined in 36 CFR 1275.50 or 1275.52 (Public Access Regulations).

Dated: February 2, 1998.

John W. Carlin,

Archivist of the United States.

[FR Doc. 98–3152 Filed 2–6–98; 8:45 am]

BILLING CODE 7515–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Toledo Edison Company, Centerior Service Company and The Cleveland Electric Illuminating Company (Davis-Besse Nuclear Power Station, Unit 1); Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company (the licensees) to amend Facility Operating License NPF–3 issued to the licensees for operation of the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County, Ohio. Notice of Consideration of Issuance of the amendment was published in the **Federal Register** on January 2, 1997 (62 FR 132).

The purpose of the licensees' amendment request was to revise Technical Specification (TS) Section 3/4.8.1, "A.C. Sources," TS Section 3/4.8.2, "Onsite Power Distribution Systems," TS Table 4.8.1, "Battery Surveillance Requirements," and the associated bases. Surveillance requirements were modified to account for an increase in the fuel cycle. Administrative changes were also made.

The proposed changes to TS 4.8.1.1.1.b, TS 4.8.1.1.2.d, TS 4.8.2.3.2.d and TS 4.8.2.3.2.f were denied in part. The proposed change to TS 4.8.2.3.2.e was denied. The licensees requested to remove the restriction "during shutdown" from these TSs. These removals were denied because these removals would be inconsistent with current staff positions.

The NRC staff has concluded that part of the licensees' request cannot be granted. The licensees were notified of the Commission's partial denial of the proposed change by letter dated February 3, 1998.

By March 11, 1998, the licensees may demand a hearing with respect to the partial denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene. A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, *Attention:* Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay E. Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensees.

For further details with respect to this action, see (1) the application for amendment dated October 28, 1996, as supplemented by letters dated August 19 and October 16, 1997, and (2) the Commission's letter to the licensees dated February 3, 1998.

These documents are available for public inspection at the Commission's Public Document Room and at the local public document room located at the University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Dated at Rockville, Maryland, this third day of February 1998.

For the Nuclear Regulatory Commission.

Allen G. Hansen,

Project Manager, Project Directorate III–3, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–3166 Filed 2–6–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–247]

Consolidated Edison Company of New York, Inc. (Indian Point Nuclear Generating Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR 50.60 and 10 CFR Part 50, Appendix G, Facility Operating License No. DPR–26, issued to Consolidated Edison Company of New York, Inc. (the licensee), for operation of the Indian Point Nuclear Generating Unit No. 2 (IP2) located in Westchester County, New York.

Environmental Assessment

Identification of the Proposed Action

The proposed action would exempt the licensee from the requirements of 10 CFR 50.60 and 10 CFR Part 50, Appendix G, to allow the use of the methodology, or its equivalent, specified in Appendix G in the 1996 Addenda to Section XI of the American Society of Mechanical Engineers (ASME) Code (the 1996 methodology) for developing pressure-temperature (P–T) limits.

The proposed action is in accordance with the licensee's application for exemption dated October 7, 1997.

The Need for the Proposed Action

Pursuant to 10 CFR 50.60, all light water nuclear power reactors must meet the fracture toughness requirements for the reactor coolant pressure boundary as set forth in 10 CFR Part 50, Appendix G. Appendix G of 10 CFR Part 50 requires that the appropriate requirements on both the P–T limits and the minimum permissible temperature must be met for all conditions. The P–T limits identified as "ASME Appendix G limits" require that the limits must be as conservative as limits obtained by following the methods of analysis and the margins of safety of Appendix G of Section XI of the ASME Code. The Codes and Standards as specified in 10 CFR 50.55a references Section XI of the ASME Boiler and Pressure Vessel Code refer to Class 1, Class 2, and Class 3 components of Section XI, Division 1, and include addenda through the 1988 Addenda and editions through the 1989 Edition. The proposed action is needed to permit the licensee to use a methodology specified in the 1996 edition, or its equivalent, for developing the P–T limits for Indian Point 2.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed methodology specified in Appendix G in the 1996 Addenda to Section XI of the ASME Code (the 1996 methodology) for developing P-T limits and concludes that there will be no physical or operational changes to IP2.

The Commission has evaluated the environmental impact of the proposed action and has determined that the probability or consequences of accidents would not be increased by the proposed action, and that post-accident radiological releases would not be greater than previously determined. Further, the Commission has determined that the proposed action would not affect routine radiological exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action would not affect nonradiological plant effluents and would have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there are not significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are identical.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for Indian Point Nuclear Generating Unit No. 2, dated November 1976.

Agencies and Persons Contacted

In accordance with its stated policy, on December 2, 1997, the staff consulted with the New York State Official, Jack Spath, of the New York State Research and Development Authority regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated October 7, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York 10610.

Dated at Rockville, Maryland, this 27th day of January 1998.

For the Nuclear Regulatory Commission.

Jefferey F. Harold,

Project Manager, Project Directorate I–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–3167 Filed 2–6–98; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of Filing and Information Services, Washington, D.C. 20549

Extension:

Form BD/Rule 15b1–1, SEC File No. 270–0019, OMB Control No. 3235–0012

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget a request for extension of the previously approved collection of information discussed below.

• Form BD/Rule 15b1–1, Application for Registration as a Broker or Dealer.

Sections 15(b) (1) and (2) of the Securities Exchange Act of 1934 authorizes the Commission to prescribe by rule an application form for registration that contains such information about broker-dealers that is necessary or appropriate in the public interest or for the protection of investors. Similarly, Section 15B(a)(2) of the Exchange Act authorizes the Commission to prescribe an application form for registration of municipal securities dealers, and Section 15C(a)(2) of the Exchange Act authorizes the Commission to prescribe an application form for registration of government securities broker-dealers. Section 15C(a)(1)(B) further provides that registered broker-dealers engaging in government securities activities use provide the Commission with notice of such activities, in such form as the Commission may prescribe. To implement the foregoing statutory provisions of the Exchange Act, the Commission has promulgated, pursuant to Rule 15b1–1, 17 CFR 240.15b1–1, Form BD (17 CFR 249.501), the uniform application for broker-dealer registration. Form BD requires the applicant or registrant filing the form to provide the Commission with certain information concerning the nature of its business and the background of its principals, controlling persons, and employees. Form BD is designed to permit the Commission to determine whether the applicant meets the statutory requirements to engage in the securities business. Form BD also is used to register as broker-dealers with certain self-regulatory organizations ("SROs") and all of the states.

For fiscal year 1996, the Commission received approximately 846 full form BDs for initial or successor applications for registration as a broker-dealer, non-bank municipal securities dealer, or non-bank government securities broker-dealer (pursuant to Rule 15b1–1, 15b1–3, 15b1–4, 15Ba2–2(a), 15Ba2–4, 15Ba2–5, 15Ca2–1, 15Ca2–3, and 15Ca2–4). Although the time necessary to complete Form BD will vary depending on the nature and complexity of the applicant's securities business, Commission staff estimates that the average time necessary to complete the full form is approximately 2.75 hours. Thus, the total burden hours for the filing of a full form BD is 2,326.50 hours (2.75×846).

In addition to full Form BD, applicants are required to file amendments to Form BD when information originally reported changes or becomes inaccurate. For fiscal year 1996, the Commission received approximately 15,000 amendments. The staff estimates that the average time necessary to complete an amendment is approximately 0.33 hours. Thus, the total burden hours for the filing of Form BD amendments is 4,950 hours (0.33×15,000). In sum, the total annual burden for Form BD and Form BD amendments is 7,276.50 hours (2,326.50+4,950).

Form BD must be kept by the broker-dealer for as long as it is operating. Completing and filing Form BD is mandatory for broker-dealers but does not involve the collection of confidential information. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the estimated burden hours should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: February 2, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–3116 Filed 2–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23019; 812–10934]

SBSF Funds, Inc. d/b/a Key Mutual Funds, et al.; Notice of Application

February 3, 1998.

AGENCY: Securities and exchange Commission ("SEC").

ACTION: Notice of application for exemption under section 17(b) of the Investment Company Act of 1940 (the "Act") from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit certain series of the Victory Portfolios to acquire all of the assets and assume all of the liabilities of certain series of SBSF Funds, Inc. d/b/a Key Mutual Funds.

APPLICANTS: The Victory Portfolios, on behalf of eight of its series; SBSF Funds, Inc. d/b/a/ Key Mutual Funds (the "Key Funds"), on behalf of eight of its series; and Key Asset Management Inc. ("KAM").

FILING DATES: The application was filed on December 30, 1997. Applicants have agreed to file an amendment, the substance of which is incorporated in this notice, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 .m. on March 2, 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 writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, N.W., Washington, D.C. 20549. Applicants: SBSF Funds, Inc. d/b/a Key Mutual Funds and Victory Portfolios, 3435 Stelzer Road, Columbus, Ohio 44114 and Rockefeller Plaza, New York, New York 10111.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Attorney Adviser, at (202) 942–0574, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the

application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 5th Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. The Victory Portfolios, a Delaware business trust, is registered under the Act as an open-end management investment company. The Victory Portfolios is comprised of thirty series (the "Victory Funds"), each having a separate investment objective and investment policy. The shares of each of the Victory Funds are registered under the Securities Act of 1933 (the "1933 Act"). Eight of the Victory Funds—Victory LifeChoice Growth Investor Fund, Victory LifeChoice Conservative Investor Fund, Victory LifeChoice Moderate Investor Fund, Victory Federal Money Market Fund, Victory Special Growth Fund, Victory Stock Index Fund, Victory Convertible Securities Fund, and Victory Diversified Stock Fund—are referred to as the "Acquiring Funds." Two of the Acquiring Funds are multiple class funds: the Victory Diversified Stock Fund offers Class A and Class B shares; and the Victory Federal Money Market Fund offers Investor Class and Select Class shares.

2. Key Funds, a Maryland Corporation, is registered under the Act as an open-end management investment company. Key Funds currently offers eight series: KeyChoice Growth Fund, KeyChoice Income and Growth Fund, KeyChoice Moderate Growth Fund, Key Money Market Mutual Fund, Key Stock Index Fund, SBSF Capital Growth Fund, SBSF Convertible Securities Fund, and SBSF Fund (the "Acquired Funds"). Each Acquired Fund has a distinct investment objective and investment policy and issues only one class of shares that are registered under the 1933 Act.

3. KAM, a New York corporation, is an investment adviser registered under the Investment Advisers Act of 1940. KAM is the investment adviser to the Acquiring Funds and the Acquired Funds (collectively, the "Funds"). KAM is a wholly-owned subsidiary of KeyBank N.A., which is a wholly-owned subsidiary of KeyCorp, a financial services holding company ("KeyBank"). BISYS Fund Services, Inc. and its affiliates (collectively, "BISYS") serve as the administrator, distributor, and accounting agent for the Funds.

4. Society National Bank and Company ("Society Bank") is a subsidiary of KeyBank and KeyCorp. As of December 26, 1997, Society Bank, record holder for the benefit of various customers (including employees of KeyCorp and its affiliates), owned 97.97% of Victory Stock Index Fund, 98.32% of Victory Special Growth Fund, 83.65% of Victory Diversified Stock Fund, 94.47% of KeyStock Index Fund, 99.11% of KeyChoice Growth Fund, 98.56% of KeyChoice Moderate Growth Fund, and 97.98% of KeyChoice Income and Growth Fund.

5. The shares of four of the Acquiring Funds, Victory Stock Index Fund, Victory Special Growth Fund, Victory Convertible Securities Fund, and Victory Diversified Stock Fund, Carry a front-end sales load of 5.75%. Shares of the Acquired Funds are not subject to a front-end sales load. Shares of the Acquired Funds and the Acquiring Funds are not subject to asset-based sales charges or contingent deferred sales charges.

6. The Victory Portfolios, on behalf of the Acquiring Funs, and the Key Funds, on behalf of the Acquired Funds, entered into an Agreement and Plan of Reorganization (the "Plan") to effectuate transactions contemplated in the Plan (the "Reorganization"). The Plan provides that on or about March 16, 1998 and March 23, 1998 ("Closing Dates"), the assets of each Acquired Fund will be transferred to the corresponding Acquiring Fund in exchange for the issuance of full and fractional shares of the Acquiring Fund. The Acquiring Funds will assume the liabilities of the corresponding Acquired Funds. For purposes of the Reorganization, each Acquiring Fund's shares will have an aggregate net asset value ("NAV") equal to the aggregate NAV of the Acquired Fund as of the close of business on the business days preceding the Closing Dates (the "Valuation Dates").

7. The Reorganization will be effected for each Acquired Fund's shareholder at NAV without the imposition of any sales charges. On, or as soon as practicable after the Closing Dates, each Acquired Fund will liquidate and distribute pro rata the shares of the corresponding Acquiring Fund to its shareholders of record determined as of the relevant Valuation Date. Shareholders of the KeyChoice Growth Fund, KeyChoice Income and Growth Fund, KeyChoice Moderate Growth Fund, Key Stock Index Fund, SBSF Capital Growth Fund, SBSF Convertible Securities Fund, and SBSF Fund will be issued Class A shares of the Victory LifeChoice Growth Investor Fund, Victory LifeChoice Conservative Investor Fund, Victory LifeChoice Moderate Investor Fund, Victory Stock Index Fund, Victory Special Growth Fund, Victory Convertible Securities Fund, and Victory Diversified Stock Fund, respectively. Key Money Market Mutual Fund's shareholders will be issued Investor Class shares of the Victory Federal Money Market Fund.

8. Victory LifeChoice Growth Investor Fund, Victory LifeChoice Conservative Investor Fund, Victory LifeChoice Moderate Investor Fund, Victory Federal Money Market Fund-Investor Class, and Victory Convertible Securities Fund (the "New Victory Funds") were established for the sole purpose of receiving assets of the corresponding Acquired Funds. Each New Victory Fund has materially the same investment objectives, policies, and restrictions as its corresponding Acquired Fund. The remaining Acquiring Funds have investment objectives and policies that are similar to the corresponding Acquired Funds.

9. On December 2 and 3, 1997, the boards of directors of the Funds ("the Boards"), including a majority of the members who are not "interested persons" ("Independent Board Members"), unanimously approved the Plan and Reorganization. The Boards determined that the Reorganization is in the best interests of the Funds. The Boards also determined that the interests of the Funds' existing shareholders will not be diluted as a result of the Reorganization.

10. The Boards considered various factors in reaching their decision to approve the Plan and Reorganization, including: (i) The efficiency of the present arrangement in which the Acquired Funds and the Acquiring Funds operate as separate entities within the same fund complex; (ii) the expectation that Victory Portfolios' promotion to a larger marketing base will enhance the asset growth potential of the Funds; (iii) the asset growth and the elimination of certain redundancies in the administration and operation of the Funds may result in economies of scale and lower expenses ratios; (iv) the substantial similarities in the investment objectives of each Acquiring Fund and the corresponding Acquired Fund; (v) no sales charges will be imposed in the Reorganization; (vi) substantially all of the Acquired Funds' shareholders will not be subject to sales charges when making subsequent purchases of Victory Portfolios because the Acquired Funds' shareholders will qualify for sales charge waivers; (vii) the expectation that the current shareholders of the Acquired Funds will be subject to equal or lower expenses as shareholders of the Acquiring Funds; and (viii) the Reorganization is expected to be tax-free.

11. The Reorganization is subject to certain conditions described in the Plan, including: (a) That the parties shall have received exemptive relief from the SEC with respect to the issues that are the subject of the application; and (b) that shareholders of the Acquired Funds will have approved the Reorganization. Applicants agree not to make any material changes to the Plan without prior SEC approval.

Applicants' Legal Analysis

1. Section 17(a) of the Act, in relevant part, prohibits an affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, from knowingly selling to or purchasing from such registered investment company or any company controlled by such registered company, and security or other property.

2. Section 2(a)(3) of the Act defines the term "affiliated person" of another person to include, in pertinent part, any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person, and any person directly or indirectly controlling, controlled by, or under common control with such other person, and if such other person is an investment company, any investment thereof.

3. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons solely by reason of having a common investment adviser, common directors/trustees, and/or common officers, provided that certain conditions are satisfied.

4. Applicants believe that they may not rely upon rule 17a–8 because the Funds may be affiliated for reasons other than those set forth in the rule. Applicants state that because of Society Bank's ownership of shares of several of the Funds, the Acquiring Funds may be deemed an affiliated person of the Acquired Funds, and vice versa, for reasons not based solely on their common adviser, KAM. Consequently, applicants are requesting an order under section 17(c) of the Act exempting them from section 17(a) of the Act to the extent necessary to consummate the Reorganization.

5. Section 17(b) of the Act provides that the SEC may exempt a transaction from the provisions of section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned; the proposed transaction is consistent with the policy of each registered investment company concerned; and the proposed transaction is consistent with the general purposes of the Act.

6. Applicants submit that the terms of the Reorganization satisfy the standards set forth in section 17(b) of the Act. Applicants also submit that the terms of the Reorganization are fair and reasonable and do not involve overreaching on the part of any person concerned. Applicants state that the Boards, including the Independent Board Members, have reviewed the terms of the Reorganization as set forth in the Plan, including the consideration to be paid or received, and have found that participation in the Reorganization is in the best interest of the Funds. Applicants also state that the Boards have found that the interests of existing shareholders of each Fund will not be diluted as a result of the Reorganization. Applicants note that the investment objectives, policies, and restrictions of each Acquiring Fund are substantially similar to those of each corresponding Acquired Fund. Applicants also note that the exchange of each Acquired Fund's assets and liabilities for the shares of the corresponding Acquiring Fund will be based on the Funds' relative NAVs.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–3224 Filed 2–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 4679, January 30, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: January 30, 1998.

CHANGE IN THE MEETING: Deletion.

The following items will not be considered at the closed meeting scheduled for Thursday, February 5, 1998:

Settlement of administrative proceedings of an enforcement nature.
Settlement of injunctive action.
Opinion.

Commissioner Carey, 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: February 4, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–3275 Filed 2–5–98; 11:37 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39607; File No. SR–Amex–98–04]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Designation of Portfolio Depositary Receipts Under Rule 154

February 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on January 21, 1998, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the 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 Exchange proposes to designate Portfolio Depository Receipts as eligible for stop and stop limit orders to be elected by quotation, pursuant to Amex Rule 154, Commentary .04(c). The text of the proposed rule change is available at the Office of the Secretary, the Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

Exchange Rules 131 and 154 allow stop and stop limit orders [3] in selected derivative securities to be elected by a quotation,[4] provided the prior approval of a Floor Official is obtained.[5] Absent this provision, such orders could only be elected when a transaction in the security occurred at or through the stop price, notwithstanding the fact that the quoted market had moved through the stop price as a result of trading in the underlying security.

Under Exchange Rule 154, Commentary .04(c)(v), provisions regarding the election of stop and stop limit orders are only applicable to such derivative securities as are designated by the Exchange as eligible for this treatment. The Exchange has previously designated Standard & Poor's Depositary Reciepts® ("SPDRs®") as eligible for such treatment.[6]

The Exchange proposes to designate Portfolio Depositary Receipts ("PDRs℠"),[7] pursuant to Exchange Rule 154, Commentary .04(c), as eligible for stop and stop limit orders to be elected by quotation. In addition to SPDRs, other PDRs currently approved for trading on the Exchange include MidCap SPDRs™ and DIAMONDS℠.[8] As derivative equity securities, PDRs can be expected to fluctuate in price based on changes in an underlying stock index or portfolio, and are therefore appropriately designated as eligible for election of stop and stop limit orders by quotation.

(2) Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act [9] in general and furthers the objectives of Section 6(b)(5) [10] in particular in that it is designed to promote just and equitable principles of trade, to 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 inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of Exchange Rule 154, and, therefore, has become effective pursuant to Section 19(b)(3)(A) [11] of the Act and subparagraph (e)(1) of Rule 19b–4 [12] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such proposed rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference 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 Amex. All submissions should refer to File No. SR–Amex–98–04 and should be submitted by March 2, 1998.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–3187 Filed 2–6–98; 8:45 am]

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[3] Stop sell orders generally are entered in a stock whose price has increased substantially to protect the investor's profits should the stock price decline. Similarly, stop buy order generally are entered by investors with short positions to limit losses should the stock price increase.

[4] A stop or stop limit order in a derivative security is elected, *i.e.*, becomes a market or limit order, respectively, when the quoted market for the derivative security reaches the appropriate stop or stop limit price. Once elected, the specialist treats the orders like any other market or limit order. The specialist must execute the market order at the next best market price, and must execute the limit order at the limit price or hold the order on his limit order book until the limit price is available.

[5] See Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) (File No. SR–Amex-90–31), regarding election of stop and stop limit orders by quotation for certain derivative equity securities.

[6] See Securities Exchange Act Release No. 34877 (October 21, 1994), 59 FR 54015 (October 27, 1994) (File No. SR–Amex-94–41). "Standard & Poor's Depositary Receipts℠," "SPDRs℠," and "MidCap SPDRs™" are trademarks of The McGraw-Hill Companies, Inc. PDR Services Corporation and the Exchange are permitted to use these trademarks pursuant to a License Agreement with Standard & Poor's ("S & P") a division of The McGraw-Hill Companies, Inc. The SPDR and MidCap SPDR Trusts, however are not sponsored by or affiliated with Standard & Poor's or The McGraw-Hill Companies, Inc., and S & P makes no representation regarding the advisability of investing in SPDRs or MidCap SPDRs.

[7] "PDR℠" is a service mark of PDR Services Corporation, a wholly-owned subsidiary of Amex.

[8] Amex's listing and trading of DIAMONDS℠ was approved by the Commission in Securities Exchange Act Release No. 39525 (January 8, 1998), 63 FR 2438 (January 15, 1998) (File No. SR–Amex-97–29). "DIAMONDS℠" is a trademark and service mark of Dow Jones and Company,Inc. ("Dow Jones") and has been licensed for use for certain purposes by the Exchange and PDR Services Corp., the Trust Sponsor. DIAMONDS are not sponsored, endorsed, sold or promoted by Dow Jones, and Dow Jones makes no representation regarding the advisability of investing in such product.

[9] 15 U.S.C. 78f(b)

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(e)1).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39611; File No. SR–NSCC–97–15]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Odd-lot Activity Reports

February 2, 1998.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] notice is hereby given that on

December 22, 1997, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which items have been prepared primarily by NSCC. The Commission is publishing this notice and order to solicit comments from interested persons on the proposed rule change and to grant accelerated approval of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will amend NSCC's procedures to eliminate the distribution of odd-lot activity reports.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NSCC currently produces odd-lot activity reports for distribution by the New York Stock Exchange ("NYSE"). The reports identify odd-lot trades executed on the NYSE each trading day and are provided to joint members of NSCC and NYSE in both print and machine readable output formats on the night of trade date.

The purpose of the proposed rule change is to amend NSCC's rules to eliminate the distribution of the reports. NYSE requested the elimination because the odd-lot activity information is available in other reports currently distributed to members. NSCC will coordinate with the NYSE the process of discontinuing distribution.

NSCC believes that the proposed rule change is consistent with the requirements of Section 17A of the Act[3] and the rules and regulations thereunder because it fosters cooperation and coordination with other entities engaged in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC 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

No comments on the proposed rule change were solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[4] The Commission believes that the proposal is consistent with NSCC's obligations because it coordinates the dissemination of information by NSCC and NYSE.

NSCC has requested that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register** in order to allow NSCC to eliminate production of reports on the same day that the NYSE is scheduled to cease distribution of reports. Because accelerated approval will allow NSCC and NYSE to implement administrative efficiencies in an expedient and coordinated fashion, the Commission finds good cause for granting accelerated approval.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–97–15 and should be submitted by March 2, 1998.

Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–97–15) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–3118 Filed 2–6–98; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] 15 U.S.C. 78q-1.

[4] 15 U.S.C. 78q–(b)(3)(F).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39606; File No. SR–PHLX–97–42]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Relating to a Floor Broker's Responsibility to be Loud and Audible and Positioned to be Heard by a Majority of the Trading Crowd

February 2, 1998.

I. Introduction

On August 27, 1997, the Philadelphia Stock Exchange, Inc. ("Phlx" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[1] a proposed rule change to amend Floor Procedure Advice C–7 to specify a Floor Broker's responsibility to be loud and audible and positioned to be heard by a majority of the trading crowd.

The proposed rule change was published for comment in Securities Exchange Act Release No. 39404 (December 4, 1997), 62 FR 65467 (December 12, 1997). No comments were received on the proposal.

II. Description of the Proposal

The Exchange, pursuant to Rule 19b–4 of the Act,[1] proposes to amend Floor

[1] 17 CFR 240.19b–4.

Procedure Advice ("Advice") C–7, Responsibility to Represent Orders to the Trading Crowd, to adopt a new paragraph (b) in order to specify a Floor Broker's responsibility to be loud and audible and positioned to be heard by a majority of the trading crowd.

Currently, Advice C–7 states that once an option order has been received on the floor, it must be represented to the trading crowd before it may be represented away from the crowd. This paragraph would be designated as paragraph (a). Proposed paragraph (b) would state that a Floor Broker must be loud and audible when requesting a market and/or representing an order in the trading crowd. Further, a Floor Broker must make reasonable efforts to position himself in the trading crowd to be heard by the majority of the trading crowd.

A fine schedule, pursuant to the Exchange's minor rule violation enforcement and reporting plan ("minor rule plan"),[2] is proposed to be levied for minor violations of proposed paragraph (b). Specifically, violations will be subject to the following fine schedule, which will be implemented on a one year running calendar basis: 1st Occurrence—$100; 2nd Occurrence—$250; 3rd Occurrence and Thereafter—Sanction is discretionary with Business Conduct Committee ("BCC"). This fine schedule is proposed to be adopted into, and thus amend, the Exchange's minor rule plan. Instances not deemed minor, as with all floor procedure advices subject to the minor rule plan, would be forwarded to the BCC. Violations of paragraph (a) would continue to be referred to the BCC, as no fine schedule applies. However, language indicating that such matters are subject to review by the BCC is proposed to be added. The proposal will take effect upon notice to the membership.

First adopted in 1987,[3] Advice C–7 was designed to ensure that brokered orders receive the maximum interaction with orders competing for the other side of the trade, before they may be represented away from the crowd. The Exchange stated in its filing that this requirement improves the functioning of the auction market and the quality of customer executions. Similarly, the Exchange said it believed that the proposed loud and audible and crowd positioning requirements are intended to promote maximum interaction with other interest in the crowd, by improving the likelihood that Floor Brokers are heard and facilitating price discovery.

The Exchange stated in its filing that the proposal is appropriately codified into Advice C–7, which deals with Floor Broker responsibilities, and, more specifically, with representing orders in the trading crowd. Furthermore, the Exchange said the new requirement is appropriate for the minor rule plan, because it involves actions that are objective and easily verifiable. The reference in the fine schedule to infractions of paragraph (a) being referred to the BCC is intended to bolster the distinction between provisions subject to fines and those referred directly to BCC; it does not imply that violations of paragraph (a) cannot result in fines or disciplinary action.

The Exchange further stated that the loud and audible requirement is rooted in Phlx Rule 110, which requires bids and offers to be made in an audible tone of voice, as well as Rule 707, which prohibits members and member organizations from engaging in conduct inconsistent with just and equitable principles of trade. Floor Brokers are also required to utilize due diligence in representing orders, pursuant to Phlx Rules 155 and 1063. Specifically, Floor Brokers are responsible for using due diligence to execute an order at the best price available, which implies complete crowd interaction. Proposed paragraph (a) would apply to Floor Brokers requesting a market (quoting) as well as representing a market, including bidding, offering, canceling, executing and inquiring as to the status of orders or bids/offers.

Similarly, the Exchange stated that the requirement that Floor Brokers position themselves so as to be heard by a majority of the trading crowd is also rooted in Phlx Rules 707, 155 and 1063, and is also intended to maximize order interaction. The Phlx notes that the proposal's intent is similar to that of Phlx Rule 1063(a) and Advice C–1, which require that a Floor Broker, prior to executing an order, ascertain that at least one Registered Options Principal ("ROT") is present in the trading crowd.[4] ROT presence is intended to confirm pricing, prevent errors, and witness specialist-Floor Broker activity. The proposal should also promote an orderly environment, where Floor Brokers choose their crowd positioning centrally to comply with the requirement, and prevent unnecessary roughness and disorderly behavior by crowd participants attempting to hear a Floor Broker.

The proposed rule change is designed to preserve and enhance auction market principles and the process of representing orders by open outcry, which is integral to exchange options trading. As stated previously, the proposal should ensure that Floor Brokers are heard. This, in turn, should help prevent errors by allowing verification of market quotes and orders by other crowd participants. As with paragraph (a), proposed paragraph (b) should prevent fraudulent and manipulative activity. The Exchange believes that expressly codifying these requirements into an Advice should help deter such activity, due to the potential imposition of fines for minor infractions. The Exchange believes that the proposal is appropriately codified into Advice C–7, which deals with Floor Broker responsibilities, and, more specifically, with representing orders in the trading crowd. Furthermore, the Exchange believes that the new requirement is appropriate for the minor rule plan, because it involves actions that are objective and easily verifiable. The reference in the fine schedule to infractions of paragraph (a) being referred to the BCC is intended to bolster the distinction between provisions subject to fines and those referred directly to BCC; it does not imply that violations of paragraph (a) cannot result in fines or disciplinary action.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b) of the Act[5] and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b)(5) of the Act[6] in that the rules of an exchange be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing

[2] The Phlx's minor rule plan, codified in Phlx Rule 970, contains floor procedure advice, such as Advice C–7, with accompanying fine schedules. Rule 19d–1(c)(2) authorizes national securities exchanges to adopt minor rule violation plans for summary discipline and abbreviated reporting; Rule 19d–1(c)(1) requires prompt filing with the Commission of any final disciplinary actions. However, minor rule violations not exceeding $2,500 are deemed not final, thereby permitting periodic, as opposed to immediate, reporting.

[3] Securities Exchange Act Release No. 24309 (April 7, 1987), 52 FR 11894 (April 13, 1987) (SR–PHLX–86–49).

[4] Prior to the adoption of a minor rule plan, this requirement appeared in Phlx Rule 1014.06. Securities Exchange Act Release No. 23296 (June 4, 1986), 51 FR 21430 (June 12, 1987) (SR–PHLX–86–11).

[5] 15 U.S.C. 78f(b). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

information with respect to, and facilitating transactions in securities, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public. Specifically, the Commission finds that the proposal promotes just and equitable principles of trade in that it enhances the ability of Floor Officials to ensure that Floor Brokers represent their orders to the trading crowd in a manner that maximizes order interaction and preserves auction market principles.

The Commission recognizes that the proposal can be fairly implied in existing standards of the Exchange, including Rules 110, 707, 155, and 1063, as described above. Floor officials already have the authority to determine that an order has been clearly communicated. Nevertheless, the Commission concurs with the Exchange that by incorporating the requirements of the proposal into the minor rule violation plan, Floor Officials will be better equipped to facilitate an orderly market, to prevent errors by allowing verification of market quotes and orders by other crowd participants, and to prevent fraudulent and manipulative acts. Furthermore, the Commission concurs with the Exchange that the new requirement is appropriate for the minor rule plan, because it involves actions that are objective and easily verifiable.

Finally, the Commission notes that by including certain provisions of Exchange Rules into Advice C–7, the Exchange is not implying that all violations of Advice C–7 are minor in nature. Rather, as with many other important, substantive provisions in Exchange rules that are codified into advices, this system merely allows for the efficient handling of minor violations. Any violation of the procedure which has been deemed serious by the Phlx will be referred directly to the Exchange's Business Conduct Committee where stronger sanctions may result. As the Phlx notes, however, this language does not affect the other floor procedure advices administered pursuant to the plan which do not specifically contain this statement; infractions cited pursuant to the plan are minor in nature regardless of whether this specific language was added to the advice.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (SR–PHLX–97–42) is approved.

[7] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–3119 Filed 2–6–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39610; File No. SR–PHLX–97–52]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to Options Trading Rotations

February 2, 1998.

I. Introduction

On October 23, 1997, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b–4 thereunder,[2] a proposal to modify its rules governing options trading rotations.[3] The proposed rule change was published for comment in the **Federal Register** on November 24, 1997.[4] No comments were received regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The PHLX proposes to make several changes to its rules governing options trading rotations. First, the PHLX proposes to amend paragraph (a) of Exchange Rule 1047, "Trading Rotations, Halts and Suspension," to clarify that opening rotations for equity option contracts, unlike closing rotations, are conducted daily.[5]

Second, the PHLX proposes to replace references to "the Exchange" with references to "two Floor Officials, with the concurrence of a Market Regulation officer" throughout PHLX Rule 1047; in paragraphs (a)(ii), (c), (d), and (f), of PHLX Rule 1047A. "Trading Rotations, Halts or Reopenings;" and in Floor Procedure Advice ("Advice") G–2, "Trading Rotations, Halts or Reopenings,"[6] in order to specify the approval required to implement options trading halts, modified trading rotations, and other procedures. For example, PHLX Rule 1047(b), as amended, will require the halt or suspension of trading in option contracts whenever two floor officials, with the concurrence of a PHLX market regulation officer, deem such action appropriate in the interest of a fair and orderly market and to protect investors. The PHLX believes that trading rotations present the types of issues and the need for prompt determinations that are particularly suited to floor official approval. In addition, the PHLX believes that requiring the concurrence of a PHLX market regulation officer will help to ensure proper notification of the approval and allow Exchange staff to better monitor the conditions giving rise to rotation-related floor official approval.

Third, the PHLX proposes to delete from PHLX rule 1047, Commentary .01(a) and (d) provisions stating "if both puts and calls covering the same underlying security *** are traded ***." The PHLX believes that this language may be confusing because both puts and calls trade on almost all PHLX options. The PHLX also proposes to add the language "except as provided below" to Commentary .01(a) to emphasize that Commentary .01(b) contains exceptions to the normal opening rotation procedures.

Fourth, the PHLX proposes to amend Commentary .01(b) to define modified, reverse and shotgun rotations.[7] Specifically, the PHLX proposes to amend Commentary .01(b) by adding paragraph (i), which will: (1) Define a shotgun rotation as opening rotation where each option series opens in the same manner and sequence as during a regular trading rotation,[8] but is permitted to freely trade once all option series with the same expiration month have been opened;[9] (2) state that modified rotations include reverse and shotgun rotations; and (3) define a reverse rotation as an opening rotation

[8] 17 CFR 200–30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A trading rotation is a series of brief time periods during which bids, offers and transactions can be made only in specified series.

[4] See Securities Exchange Act Release No. 39332 (November 17, 1997), 62 FR 62652.

[5] Closing rotations in equity options are conducted only at expiration.

[6] Advice G–2 does not contain a fine schedule. Accordingly, the proposal does not affect the Exchange's minor rule violation enforcement and reporting plan.

[7] Because PHLX Rule 1047A(b) allows specialists to conduct a rotation in accordance with PHLX Rule 1047, Commentary .01(b) and (c), the proposed amendments to Commentary .01(b) and (c) also will apply to index options trading.

[8] PHLX Rule 1047, Commentary .01(a) describes a regular trading rotation as opening the series with the nearest expiration, proceeding to the next most distant expiration, and so forth, until all series have been opened.

[9] This definition currently describes a modified rotation.

where the specialist first opens series of options of a given class with the most distant expiration, then proceeds to the next nearest expiration and ends with the nearest expiration, until all series have been opened.

Fifth, the PHLX proposes to adopt Commentary .01(b)(ii), which will require the use of a reverse rotation in connection with openings and reopenings involving a heavy influx of orders, unless exempted by two floor officials, with the concurrence of a PHLX market regulation officer. The PHLX states that because most order flow and open interest is generally in the nearest expiration months, starting a rotation with the nearest months may mean that the nearest expiration months are outdated when free trading opens, and, accordingly, will require a subsequent rotation in order to update them. The reverse rotation is designed to produce more prompt openings by eliminating the need for a subsequent rotation of the nearest expiration months. For purposes of this provision, a heavy influx of orders will be determined on a case-by-case basis, in light of order flow through the PHLX's Automated Options Market ("AUTOM") system, the number of floor brokers in the trading crowd indicating handheld orders for the opening, and the number of orders placed on the book, relative to normal conditions for that option.[10]

Sixth, the PHLX proposes to amend Commentary .01(b)(ii) to require that two floor officials, with the concurrence of a PHLX market regulation officer, approve any second or subsequent rotations to ensure that they occur only when warranted. According to the PHLX, subsequent rotations are conducted in situations where the rotation is so time-consuming that certain series, such as those earlier in the rotation, become inundated with additional order flow or become priced incorrectly as the underlying stock price changes. The purpose of this change is to expressly permit additional rotations, but to require floor official approval to ensure proper and limited use.

Seventh, the PHLX proposes to amend Commentary .01(b)(ii) to allow specialists to employ a modified rotation when there is a delayed opening, halt or suspension in trading or other unusual market conditions. The modified rotation a specialist may employ includes, but is not limited to, a reverse or shotgun rotation.[11] According to the PHLX, this change is intended to facilitate a prompt opening by permitting, although not requiring, a modified rotation in response to certain market conditions. The PHLX believes that floor official approval should ensure that expedited rotations are employed where warranted.

Eighth, the Exchange proposes to amend PHLX Rule 1047, Commentary .01(d). Commentary .01(d) currently provides that when the PHLX's Options Committee decides to conduct a closing rotation on the trading day prior to expiration in an equity option for which the underlying equity did not trade, the rotation must commence as immediately as practicable following the time when the option normally ceases free trading (4:02 p.m.). The proposal will permit an earlier closing rotation for such options. The PHLX believes that, under certain circumstances (*e.g.*, when an underlying stock has not traded for a length of time and there is little chance that the stock will reopen that day), it would be more orderly to conduct the closing rotation during the trading day because the time after the close of trading is particularly hectic, due to final confirmation of all trading activity and the preparation of exercise decisions. The Exchange would notify members of the earlier closing rotation through an announcement on the Exchange's floor.[12]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5),[13] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.[14]

Specifically, the Commission believes that the PHLX's proposal to amend PHLX Rule 1074(a) to indicate that opening rotations for equity options are conducted daily will clarify the PHLX's rule with regard to the frequency of opening rotations. Similarly, the Commission believes that deleting references in PHLX Rule 1047, Commentary .01 (a) and (d) to puts and calls traded on the same underlying security will clarify the PHLX's rules and eliminate potential confusion. Likewise, the addition of the language "except as provided below" to the description in Commentary .01(a) of a specialist's normal procedures during opening rotations will provide additional clarity by emphasizing that Commentary .01(b) provides exceptions to the normal opening rotation procedures.

The Commission also believes that it is reasonable for the PHLX to replace references to "the Exchange" in PHLX Rules 1047 and 1047A and in Advice G–2 with references to "two Floor Officials, with the concurrence of a Market Regulation officer" in order to specify the authority required to approve options trading halts, modified trading rotations, and other procedures. According to the PHLX, the reference to approval by two floor officials will modify the Exchange's rules to reflect the PHLX's current procedures, and requiring the concurrence of a PHLX market regulation officer will ensure prompt notification of the approval and facilitate monitoring by the PHLX staff of the conditions giving rise to the floor officials' approval. The Commission notes that the rules of other options exchanges provide floor officials with similar discretion.[15]

The Commission believes that the amendments to Commentary .01(b) regarding modified trading rotations are reasonable and consistent with the Act. As noted above, the PHLX proposes to amend Commentary .01(b) to revise the definition of a modified rotation and to define reverse and shotgun rotations. The Commission believes that defining reverse and shotgun rotations will help to clarify the PHLX's rules, while defining a modified rotation to include rotations other than reverse and shotgun rotations will provide the PHLX with greater flexibility in conducting modified trading rotations in response

[10] The specialist will determine the existence of a heavy influx of orders. Telephone conversation between Michelle Weisbaum, Associate General Counsel, PHLX, and Yvonne Fraticelli, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation ("Division"), Commission, on January 22, 1998 ("January 22 Conversation").

[11] A specialist must obtain floor official approval to use a modified rotation other than a reverse or shotgun rotation. See January 22 Conversation, *supra* note 10.

[12] Telephone conversation between Michelle Weisbaum, Associate General Counsel, PHLX, and Yvonne Fraticelli, Attorney, OMS, Division, Commission, on November 21, 1997 ("November 21 Conversation").

[13] 15 U.S.C. 78f(b)(5).

[14] In approving this rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] *See e.g.*, CBOE Rule 6.2 (allowing two floor officials to direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market; CBOE Rule 6.3 (allowing two floor officials to halt trading in any security in the interests of a fair and orderly market); and American Stock Exchange, Inc. ("Amex") Rule 918, Commentary .01(b) (allowing two floor officials to approve the use of a modified trading rotation in circumstances other than in connection with a delayed opening, halt or suspension of the underlying stock or after delayed openings, halts or suspensions of an option series listed on the Amex).

to market conditions. The Commission notes that the rules of the Chicago Board Options Exchange, Inc. ("CBOE") provide similar flexibility with regard to modified trading rotations.[16]

The Commission also believes that it is reasonable for the PHLX to adopt Commentary .01(b)(ii) which, among other things, will require the use of a reverse trading rotation in connection with openings or reopenings involving a heavy influx of orders, unless exempted by two floor officials with the concurrence of a PHLX market regulation officer.[17] According to the PHLX, the rotation of the nearest expiration months first under normal opening rotation procedures may result in the need for subsequent rotations in order to update the first-rotated months when there is a heavy influx of orders. The reverse rotation is designed to eliminate the need for subsequent rotations of the nearest expiration months by opening the most distant expiration first, then opening the next nearest expiration, until the nearest expiration opens last. The Commission previously has noted the importance of completing opening rotations as quickly as possible in order to allow free trading to commence.[18] Accordingly, the Commission believes that it is reasonable for the PHLX to require a reverse rotation when there is a heavy influx of orders in order to produce a more prompt opening. The Commission believes that it is appropriate for the PHLX to allow flexibility in applying the rule by allowing two floor officials, with the concurrence of a PHLX market regulation officer, to provide an exemption from the use of a reverse rotation.

Commentary .01(b)(ii) also will allow two floor officials, with the concurrence of a PHLX market regulation officer, to approve a second rotation. According to the PHLX, a subsequent rotation may be conducted when an opening rotation was so time-consuming that some series become inundated with additional order flow or became priced incorrectly as the underlying stock price changed. The Commission believes that allowing floor officials to approve a second rotation will help the PHLX to maintain fair and orderly markets by permitting a second trading rotation when market conditions warrant a second rotation. The Commission believes that requiring the approval of two floor officials, with the concurrence of a PHLX market regulation officer, will help to ensure that second rotations are used appropriately. The Commission notes that the rules of the CBOE also permit additional trading rotations.[19]

Commentary .01(b)(ii) also authorizes the use of a modified rotation in connection with delayed opening, halts, or suspensions of options trading or other unusual market conditions. With floor official approval, specialists may use modified trading rotations other than those defined in Commentary .01(b)(i) (*i.e.*, shotgun and reverse rotations). According to the PHLX, this provision is designed to facilitate a prompt opening by allowing specialists to use a modified rotation in response to certain market conditions. The Commission believes that it is reasonable to provide PHLX specialists with the flexibility to evaluate market conditions and to modify trading rotations in order to facilitate a prompt opening. The Commission believes that proper exercise of this authority should contribute to the protection of investors and the public interest by allowing specialists to respond appropriately to current market conditions. In addition, the Commission notes that the rules of the other options exchanges contain similar provisions requiring or permitting the use of modified trading rotations.[20]

Because PHLX Rule 1047A(b) allows specialists in index options to conduct rotations in accordance with PHLX Rule 1047, Commentary .01 (b) and (c), the changes described in PHLX Rule 1047, Commentary .01 (b) and (c) also will apply to index options trading. The Commission believes it is reasonable to apply these changes to index options in order to provide flexibility in the trading of index options as well as equity options.

Finally, the Commission believes that it is reasonable for the PHLX to amend PHLX Rule 1047, Commentary .01(d) to permit an earlier closing rotation for certain equity options. According to the PHLX, there are circumstances (*e.g.*, when the underlying stock has not traded for a length of time and there is little likelihood that the stock will reopen that day) in which it would be more orderly to conduct a trading rotation during the trading day.[21] Accordingly, the Commission believes that it is appropriate to provide the PHLX with the discretion to conduct an earlier closing rotation in order to help the PHLX to maintain a fair and orderly market.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[22] that the proposed rule change (File No. SR–PHLX–97–52) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–3120 Filed 2–6–98; 8:45 am]

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[16] Under CBOE Rule 6.2, for example, an Order Book Official ("OBO") may deviate from any rotation policy or procedure with the approval of two CBOE floor officials. CBOE Rule 6.2, Interpretation and Policy .04 provides that an abbreviated rotation is CBOE Rule 6.2, Interpretation and Policy .04 provides that an abbreviated rotation is one of the deviations from rotation policy or procedure and one of the modifications of the rotation order and manner permitted under CBOE Rule 6.2.

[17] For purposes of this provision, the specialist will determine the existence of a heavy influx of orders on a case-by-case basis, in light of order flow through the PHLX's AUTOM system, the number of floor brokers in the trading crowd indicating handheld orders for the opening, and the number of orders placed on the book.

[18] See Securities Exchange Act Release No. 29869 (October 28, 1991), 56 FR 56537 (November 5, 1991) (order approving File No. SR–PHLX–91–04) (Series Opening Request Ticket procedures adopted by the PHLX will decrease the time required to obtain opening market quotations and allow free trading to commence as quickly as possible after the opening; expedited free trading will allow market makers and customers to engage in various options strategies and will result in the prompt execution of customer orders).

[19] See CBOE Rule 6.2 (allowing two floor officials to direct that one or more trading rotations be employed on any given business day to aid in producing a fair and orderly market).

[20] Amex Rule 918, Commentary .02(b), for example, requires the use of a modified trading rotation in connection with all delayed openings, halts, or suspensions of the underlying stock and after delayed openings, halts or suspensions of any option series listed for trading on the Amex, unless two floor officials approve otherwise. The Amex's rule also permits the use of a modified rotation in other circumstances or in a manner different from the procedures described in Commentary .02(b) if two floor officials determine that the procedure should be implemented due to unusual market conditions, such as a heavy influx of orders. See also CBOE Rule 6.2, Interpretation and Policy .01(b) (allowing a Board Broker, Designated Primary Market Maker, or OBO to conduct a modified trading rotation with the approval of two floor officials or at the direction of the appropriate CBOE Floor Procedure Committee); and CBOE Rule 24.13 (allowing an OBO, with the approval of two floor officials, to deviate from any rotation policy or procedure issued by the appropriate Floor Procedure Committee when they conclude in their judgment that such action is appropriate in the interests of a fair and orderly market).

[21] The PHLX will notify members of the earlier closing rotation through an announcement on the Exchange's floor. See November 21 Conversation, *supra* note 12.

[22] 15 U.S.C. 78s(b)(2).

[23] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3054]

State of New Hampshire

As a result of the President's major disaster declaration on January 15, 1998 for Public Assistance only, and an amendment thereto on January 24, 1998 adding Individual Assistance, I find that the counties of Belknap, Carroll, Cheshire, Coos, Grafton, Hillsborough, Merrimack, Strafford, and Sullivan constitute a disaster area due to damages caused by severe ice storms, rain, and high winds beginning on January 7, 1998 and continuing. Applications for loans for physical damages may be filed until the close of business on March 25, 1998, and for loans for economic injury until the close of business on October 24, 1998 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Rockingham County, New Hampshire; Caledonia, Essex, Orange, Windham, and Windsor Counties in Vermont; and Essex, Franklin, Middlesex, and Worcester Counties in Massachusetts. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	7.625
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.812
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125%
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The number assigned to this disaster for physical damage is 305411. For economic injury the numbers are 972300 for New Hampshire, 972400 for Vermont, and 972500 for Massachusetts.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 28, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–3124 Filed 2–6–98; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3055]

State of Vermont

As a result of the President's major disaster declaration on January 15, 1998 for Public Assistance only, and an amendment thereto on January 26, 1998 adding Individual Assistance, I find that the counties of Addison, Chittenden, Franklin, Grand Isle, Orange, and Windsor in the State of Vermont constitute a disaster area due to damages caused by severe ice storms, rain, high winds, and flooding beginning on January 6, 1998 and continuing. Applications for loans for physical damages as a result of this disaster may be filed until the close of business on March 27, 1998, and for loans for economic injury until the close of business on October 26, 1998 at the address listed below or other locally announced locations:

U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd. South, 3rd Floor, Niagara Falls, NY 14303

In addition, applications for economic injury loans from small businesses located in the following contiguous counties in the State of Vermont may be filed until the specified date at the above location: Bennington, Caledonia, Lamoille, Orleans, Rutland, Washington, and Windham. Any counties contiguous to the above-named primary counties and not listed herein have been previously declared under a separate declaration for the same occurrence.

The interest rates are:

	Percent
Physical Damage:	
HOMEOWNERS WITH CREDIT AVAILABLE ELSEWHERE	7.625
HOMEOWNERS WITHOUT CREDIT AVAILABLE ELSEWHERE	3.812
BUSINESSES WITH CREDIT AVAILABLE ELSEWHERE	8.000
BUSINESSES AND NON-PROFIT ORGANIZATIONS WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000
OTHERS (INCLUDING NON-PROFIT ORGANIZATIONS) WITH CREDIT AVAILABLE ELSEWHERE	7.125
For Economic Injury:	
BUSINESSES AND SMALL AGRICULTURAL COOPERATIVES WITHOUT CREDIT AVAILABLE ELSEWHERE	4.000

The numbers assigned to this disaster are 305511 for physical damage and 972600 for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: January 29, 1998.

Herbert L. Mitchell,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 98–3125 Filed 2–6–98; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice No. 2742]

Secretary of State's Advisory Committee on Private International Law (ACPIL) Study Group on International Project Finance; Meeting Notice

The Department of State's Advisory Committee on Private International Law will hold a Study Group meeting on international project finance and development Wednesday, February 18 at the International Law Institute in Washington, D.C. from 9:30 a.m.–3:00 p.m. The purpose of the meeting is to review current developments in legal issues involved in overseas project finance, and in particular the effort by the United Nations Commission on International Trade Law (UNCITRAL) to prepare model legislative guidelines to facilitate project finance. Related developments under the auspices of the World Bank, the Inter-American Development Bank, and others will also be reviewed as appropriate.

Issues to be discussed at the meeting will include evolving methods by which private and public financing and private sector development and management have been employed for long-term infrastructure projects, including build, operate and transfer (BOT) models. Legislative options to facilitate project design, development and operation, as well as project country regulation and off-shore payment facailities will be considered.

The meeting will also assist in the preparation of United States positions on this topic for the UNCITRAL Plenary session to be held in New York in June 1998, and can serve as a resource for other international bodies engaged in related activities.

The meeting of the Advisory Committee Study Group will be held at the International Law Institute at 1615 New Hampshire Avenue, N.W., Washington, D.C., and is open to the public up to the capacity of the meeting room and subject to rulings of the Chair. Participants are advised to reserve places in advance by notifying Stuart Kerr at the ILI at (202)483–3036, fax 483–3029, or Rosie Gonzales of the Office of Legal Adviser (L/PIL) at (202) 776–8420, fax 776–8482.

Participants who register in advance will be provided copies of the most recent drafts of United Nations documents on project finance legislation, which will be discussed at the meeting. Persons who cannot attend may request the documents and provide written comments either to the ILI , attention: Professor Don Wallace, Jr. at the above address, or to the Office of Legal Adviser of the Department of State (L/PIL), attention: Harold Burman at 2430 "E" Street, N.W., Washington, D.C. 20037–2800.

Additional UN documents on related topics may be available from the above offices, or sources for obtaining them from UN document centers will be provided, including the UNCITRAL Legal Guide for international construction contracts, UN Doc. No. E.87.V.10, the UNCITRAL Legal Guide on international countertrade transactions, UN Doc. E.93.V.7, and relevant materials of other international bodies.

Harold S. Burman,

Executive Director, Secretary of State's Advisory Committee on Private International Law.

[FR Doc. 98–3201 Filed 2–4–98; 4:33 pm]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice No. 2743]

Secretary of State's Advisory Committee on Private International Law (ACPIL); Study Group on Judgments; Meeting Notice

A meeting of the Study Group on Judgments of the Secretary of State's Advisory Committee on Private International Law will take place in Washington, D.C. on Friday, February 13, 1998 from 9:30 a.m. to 4:30 p.m.

The purpose of the meeting is to provide guidance to the Department of State and the members of the U.S. delegation to the sessions in March and November 1998 of the special commission of the Hague Conference on Private International Law charged with the preparation of a draft convention on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters.

The proposal for preparation of such a convention, made to the Hague Conference by the United States in May 1992, was accepted by the organization's Member States in October 1996. The Convention is to be prepared at four special commission sessions and final intergovernmental negotiations at the Hague Conference's 19th diplomatic session in October 2000. If the negotiations are successful and the United States ultimately ratifies the convention, it will provide rules of jurisdiction governing actions in U.S. state and federal courts over defendants from other party countries and over defendants from the United States in the courts of other party countries, and will facilitate the recognition and enforcement of U.S. judgments in those countries and the recognition and enforcement of judgments from those countries in U.S. courts.

The Study Group meeting will focus on the interests of the United States with regard to issues likely to be on the agenda of the March and November sessions. In particular, the discussion will seek to provide guidance on the positions that the United States should adopt and the proposals that the U.S. delegation should present with a view to contributing to the Hague Conference's effort to achieve a successful global convention.

Among the issues on the Conference's agenda are the following: The basic structure/approach of the convention; its substantive and geographical scope; prohibited and required grounds of jurisdiction; what constitutes an enforceable judgment; the procedures for recognition/enforcement and the role of the requested court; the verification process (jurisdiction of the court of origin, service and due process, fraud, excessive/exorbitant damages); the choice of court; lis pendens; the possibility of and conditions for the court of origin chosen by the plaintiff to decline jurisdiction. A number of other issues not yet discussed by the special commission or only initially addressed at the first special commission session in June 1997 and to be revisited at the March and/or November 1998 sessions, will be discussed, including: Denial of justice; group actions; protective jurisdiction (for consumers, insured, employees); jurisdiction with regard to corporations/branches; complex litigation; provisional and protective measures; the convention's applicability to intellectual property and trusts.

Those planning to participate in the Study Group meeting and so notifying the office indicated below, will receive copies of the reports prepared by the Hague Conference's Permanent Bureau on the issues involved in the project, and the summary and full reports on the June 1997 first special commission session on this project. These reports are, or shortly will be, available on the Internet home page of the State Department's Office of Private International Law (L/PIL) at [http://www.his.com/~pildb]. Those wishing to receive copies of these documents and to submit written comments or recommendations but unable to attend or obtain the documents from the home page, may request them by writing to Ms. Rosie Gonzales, Office of the Legal Adviser (L/PIL), Suite 203, South Building, 2430 E. Street, N.W., Washington, D.C. 20037–2800, or by faxing her at (202) 776–8482.

The Study Group meeting is open to the public up to the capacity of the meeting room, and will be held in conference room 1105 in the main State Department building in Washington, D.C. As access to the building is controlled, persons wishing to attend should receive advance clearance to expedite their admission and are requested for this purpose to provide their name, affiliation, address, telephone number, date of birth and social security number by no later than Wednesday, February 11, by contacting Ms. Gonzales and providing this information at the above-indicated address or fax number, or by phoning her at (202) 776–8420. Participants should be sure to use only the C Street ("diplomatic") entrance of the State Department, between 21st and 23rd Streets, where someone from L/PIL will be present to assist them.

Peter H. Pfund,

Special Adviser for Private International Law, U.S. Department of State.

[FR Doc. 98–3203 Filed 2–4–98; 3:52 pm]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings, Agreements Filed During the Week of January 30, 1998

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C 412

and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–98–3395.
Date Filed: January 27, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC Telex Mail Vote 910, Specification of Chongqing-Nagoya Fares, Intended Effective Date: February 10, 1998.

Docket Number: OST–98–3405.
Date Filed: January 29, 1998.
Parties: Members of the International Air Transport Association.
Subject: COMP Telex Mail Vote 909, Korean Currency Adjustment (Reso 010n), Intended effective date: February 15, 1998.

Docket Number: OST–98–3406.
Date Filed: January 29, 1998.
Parties: Members of the International Air Transport Association.
Subject: PTC12 MEX–EUR 0013 dated January 27, 1998, Mexico-Europe Expedited Resos r1–3, r1–002b r2–070b r3–070r, Intended effective date: April 1, 1998.

Paulette V. Twine,
U.S. D.O.T. Dockets.
[FR Doc. 98–3163 Filed 2–6–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Notice of Application for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending January 30, 1998

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–98–3404.
Date Filed: January 29, 1998.
Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 26, 1998.
Description: Application of Asia Pacific Airlines, Inc., pursuant to 49 U.S.C. Section 41102, and Subpart Q of the Regulations, requests the Department to issue it Certificates of Public Convenience and Necessity to authorize it to engage in interstate and foreign charter air transportation of property and mail.

Paulette V. Twine,
U.S. D.O.T. Dockets.
[FR Doc. 98–3162 Filed 2–6–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Partnership Council; Notice of Meeting

AGENCY: Office of the Secretary, DOT.

SUMMARY: The Department of Transportation (DOT) announces a meeting of the DOT Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

Time and Place: The Council will meet on Wednesday, February 25, 1998, at 1:00 p.m., at the Department of Transportation's U.S. Coast Guard Yard, Berry Hall, Curtis Bay, Baltimore, Maryland 21226.

Type of Meeting: These meetings will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact DOT to obtain appropriate accommodations.

Point of Contact: John E. Budnik or Jean B. Lenderking, Corporate Human Resource Leadership Division, M–13, Department of Transportation, Nassif Building, 400 Seventh Street, SW., room 9425, Washington, DC 20590, (202) 366–9439 or (202) 366–8085, respectively.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to receive results of DOT labor-management climate survey and explore next steps, and consider options for honoring the late American Federation of Government Employees (AFGE) President John Sturidvant.

Public Participation

We invite interested persons and organizations to submit comments. Mail or deliver your comments or recommendations to Ms. Jean Lenderking at the address shown above. Comments should be received by February 18, 1998 in order to be considered at the February 25 meeting.

Issued in Washington, DC, on January 30, 1998.

For the Department of Transportation.
John E. Budnik,
Associate Director, Corporate Human Resource Leadership Division.
[FR Doc. 98–3161 Filed 2–6–98; 8:45 am]
BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG 98–3394]

Chemical Transportation Advisory Committee

AGENCY: Coast Guard, DOT.
ACTION: Notice of meetings.

SUMMARY: The Chemical Transportation Advisory Committee (CTAC) and its Subcommittees on Prevention Through People (PTP) and Vapor Control Systems (VCS) will meet to discuss various issues relating to the marine transportation of hazardous materials in bulk. All three meetings will be open to the public.

DATES: CTAC will meet on Thursday, March 5, 1998, from 9 a.m. to 3 p.m. The Subcommittees on PTP and VCS will meet on Wednesday, March 4, 1998, from 9:30 a.m. to 3 p.m. Written material and requests to make oral presentations should reach the U.S. Coast Guard on or before February 23, 1998. Requests to have a copy of your material distributed to each member of CTAC or Subcommittees on PTP and VCS should reach the U.S. Coast Guard on or before February 17, 1998.

ADDRESSES: CTAC will meet in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC. The Subcommittee on PTP will meet in room 1103 of Coast Guard Headquarters and the Subcommittee on VCS will meet in room 1303 of Coast Guard Headquarters. Send written material and requests to make oral presentations to Commander Kevin S. Cook, Commandant (G–MSO–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Commander Kevin S. Cook, Executive Director of CTAC, or Ms. Sara S. Ju, Assistant to the Executive Director, telephone 202–267–1217, fax 202–267–4570.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

Chemical Transportation Advisory Committee (CTAC). The agenda includes the following:

(1) Final report on medium term tasks from the Subcommittee on PTP.

(2) Final reports from the VCS Line Clearance (Pigging) Work Group and the Tank Barge Cleaning Work Group of the Subcommittee on VCS.

(3) Presentation of the task statement and formation of the Subcommittee on Cargo Names.

(4) Presentation on requirements for chemical shipping names.

(5) Presentation on American Bureau of Shipping (ABS) effort on chemical barge design rules/standards.

(6) Presentation on simulation training for inland towboat captains and pilots.

(7) Status of the U.S. Coast Guard International Safety Management (ISM) Code and Hazardous Substance Response Plan (HSRP) rulemaking projects.

Subcommittee on Prevention Through People (PTP). The agenda includes the following:

(1) Review the final report on medium term tasks.

Subcommittee on Vapor Control System (VCS). The agenda includes the following:

(1) Review final report of the VCS Line Clearance (Pigging) Work Group.

(2) Review final report of the Tank Barge Cleaning Work Group.

Procedural

All three meetings are open to the public. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you should like to make an oral presentation at a meeting, please notify the Executive Director no later than February 23, 1998. Written material and distribution at a meeting should reach the U.S. Coast Guard no later than February 23, 1998. If you would like a copy of your material distributed to each member of CTAC or Subcommittees on PTP and VCS in advance of a meeting, please submit 25 copies to the Executive Director no later than February 17, 1998.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: January 29, 1998.

Joseph J. Angelo,

Director of Standards, Marine Safety and Environmental Protection.

[FR Doc. 98–3189 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–055; Notice No. 1]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: This notice solicits public comments on the manufacturer reporting requirements specified in 49 CFR part 590, for the phase-in of the motor vehicle rear-door retention requirement.

Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes the collection of the information concerning vehicle manufacturers' plans for beginning to comply with these rear door retention requirements, for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before April 10, 1998.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh St. S.W., Washington, D.C. 20590. Please identify the subject of the proposed collection of information for which a comment is provided. It is requested, but not required, that 1 original plus 2 copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each NHTSA request for collection of information approval may be obtained at no charge from Mr. Edward Kosek, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, S.W., Room 6123, Washington, D.C. 20590. Mr. Kosek's telephone number is (202) 366–2589. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility, and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Production Schedule for Compliance of Back Door Locks and Door Retention Components With FMVSS 206

Type of Request—New Request for Clearance.

OMB Clearance Number—2127.

Form Number—This collection of information uses no standard forms.

Requested Expiration Date of Approval—February 28, 2001.

Summary of the Collection of Information—NHTSA must ensure that motor vehicle manufacturers comply with new provisions in Federal Motor Vehicle Safety Standard 206 "Door Locks and Door Retention Components", requiring increased performance for back door locks and back door retention components. The new requirements published on September 28, 1995 (60 FR 50124), and July 31, 1996 (61 FR 39904), required new retention requirements for the rear doors of passenger cars, multipurpose vehicles and trucks. The agency specified a one-year phase-in of this requirement. Vehicle manufacturers are required to produce a combined total production of 60 percent of their vehicles in compliance during the period of September 1, 1997, and September 1, 1998. After September 1,

1998, the vehicle manufacturers are required to report on this phase-in, to the agency. The July 31, 1996 notice also specifies the reporting requirements, as specified in 49 CFR, part 590.

Description of the need for the information and proposed use of the information—In order to ensure manufacturers are complying with new provision for back door locks and retention components in Standard 206, NHTSA needs reports from manufacturers of new passenger cars, multipurpose vehicles and trucks which have liftgates, hatchbacks, rear cargo doors or sliding doors which are applicable to the Standard 206. For each report, the manufacturer will provide (in addition to administrative necessities such as identity, address) numerical information from which NHTSA will be able to determine whether a manufacturer complies with the percentage phase-in requirements. The required numerical information will include the total number of vehicles manufactured during the production year that are equipped with back door locks and retention components that comply with the new provisions of Standard 206, and the total number of vehicles produced.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information—NHTSA anticipates that no more than 35 vehicle manufacturers will be affected by the requirements. NHTSA does not believe any of these 35 manufacturers is a small business (i.e., one that employs less than 500 persons.) Each manufacturer must file one report. Additionally, the NHTSA may request compliance information on a specific model vehicle during the first year of the phase-in.

Estimate of the Total Annual Reporting and Recordkeeping Burden Resulting from the Collection of Information—NHTSA estimates that each manufacturer will need 12 hours per year of time for recordkeeping and 24 hours per year to prepare a report, at a cost of $30.00 per hour. Thus, the number of estimated reporting burden hours a year on 35 manufacturers at 1 report per manufacturer and 36 person hours, $30 per hour at an annual cost to the public of $37,800.

Authority: 44 U.S.C. 3506(c); delegation of authority at 49 CFR 1.50.

Dated: January 29, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards

[FR Doc. 98–3193 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Discretionary Cooperative Agreements for Development of Crash Outcome Data Evaluation Systems

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Announcement of discretionary cooperative agreements to assist in the development and use of Crash Outcome Data Evaluation Systems (CODES) in states not previously funded to develop CODES.

SUMMARY: The National Highway Traffic Safety Administration (NHTSA) announces a discretionary cooperative agreement program to assist states in the development and use of Crash Outcome Data Evaluation Systems (CODES) and solicits applications for projects under this program from states who have not previously been funded to develop CODES. Under this program states will link their existing statewide traffic records with medical outcome and charge data. The linkage will involve population-based data for the two most current calendar years of available data since 1994 and must result in a linked data file that, if not statewide, is representative and generalizable for highway traffic purposes statewide. The linked data will be used to support highway safety decision-making statewide to reduce deaths, non-fatal injuries, and health care costs resulting from motor vehicle crashes. The linkage and highway traffic safety application of the linked data for decision-making must be completed within 18 months of the funding date.

DATES: Applications must be received at the office designated below on or before April 30, 1998.

ADDRESSES: Applications must be submitted to the National Highway Traffic Safety Administration, Office of Contracts and Procurement (NAD–30) ATTN: Henrietta R. Mosley, 400 7th Street, SW, Room 5301, Washington, DC 20590. All applications submitted must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–98–H–07086. Interested applicants should contact Ms. Mosley to obtain the application packet. Included in the application packet are reports about data linkage and applications for linked data developed by the CODES project.

FOR FURTHER INFORMATION CONTACT: General administrative questions may be directed to Henrietta R. Mosley, Office of Contracts and Procurement. All questions and requests for copies may be directed by e-mail at hmosley@nhtsa.dot.gov or, if necessary, at (202) 366–9570. Programmatic questions relating to this cooperative agreement program should be directed to Dennis Utter. CODES COTR, Room 6125, (NRD–31) 400 7th Street SW, Washington, DC, 20590 or by e-mail at dutter@nhtsa.dot.gov or, if necessary at (202) 366–5351.

SUPPLEMENTARY INFORMATION:

Statement of Work

Background

Crash data alone are unable or convey the magnitude of the medical and financial consequences of the injuries resulting from motor vehicle crashes or the success of highway safety decision-making to prevent them. Outcome information describing what happens to all persons involved in motor vehicle crashes, regardless of injury, is needed.

Person-specific outcome information is collected at the crash scene and en route by EMS personnel, at the emergency department, in the hospital, and after discharge. When these data are computerized and merged statewide, they generate a source of population-based outcome data that is available for use by state and local traffic safety and public health professionals. Linking these records to statewide crash data collected by police at the scene is the key to determining the relationships among specific vehicle, crash, and occupant behavior characteristics and their medical and financial outcomes.

The feasibility of linking crash and medical outcome (EMS, emergency department, hospital discharge, death certificate, claims, etc.) data was demonstrated by the Crash Outcome Data Evaluation System (CODES) project. This project evolved from the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) which mandated that the National Highway Traffic Safety Administration (NHTSA) prepare a Report to Congress about the benefits of safety belt and motorcycle helmet use. NHTSA provided funding to the States of Hawaii, Maine, Missouri, New York, Pennsylvania, Utah, and Wisconsin to link their state data and use the linked data to analyze the effectiveness of safety belts and motorcycle helmets. The Report was delivered to Congress in February, 1996. In 1997, NHTSA awarded additional CODES grants to seven states—Connecticut, New Hampshire, Maryland, North Dakota, South Dakota, Oklahoma, and Nevada—for CODES linkage and development of state

specific highway traffic safety applications for linked data.

The CODES project also demonstrated that linked data have many uses for decision-making related to highway safety and injury control. In addition to demonstrating the effectiveness of safety belts and motorcycle helmets on death, injury, and costs, the CODES states used the linked data to identify populations at risk for increased severity or high health care costs, the impact of different occupant behaviors on outcome, the safety needs at the community level, the allocation of resources for emergency medical services, the injury patterns by type of roadway and geographic location, and the benefits of collaboration on data quality. In 1996, NHTSA awarded funds to three CODES states (New York, Pennsylvania, Wisconsin) and three states who linked crash and medical data without CODES funding (Alaska, Connecticut, New Mexico) to develop new state-specific highway traffic safety applications for linked data that would be useful for their highway traffic safety decision-making. A list of these applications and others can be found in the publication *Catalog of Types of Applications Implemented Using Linked State Data,* DOT HS 808 581, April 1997.

CODES focuses on using existing data resources for highway traffic safety applications for which they were not originally developed. Consequently, CODES efforts develop and strengthen collaboration among the existing data owners, particularly the technical experts who have experience collecting, computerizing, and analyzing the state data. Training this group of technical experts to perform the linkage and to develop state-specific applications for the linked data has facilitated institutionalization of CODES using subsequent years of data.

The original CODES states have demonstrated that data linkage helped fulfill expanded data needs without the additional expense and delay of new data collection. The linkage process itself provided feedback about data quality and content problems which led to improvements in the state data. Because NHTSA relies on state data for its various functions, it is also in NHTSA's interest to develop data linkage capabilities among all of the states nationally as a means not only to assist States to obtain outcome information but also to improve the quality of state data.

Objective

The objective of this Cooperative Agreement is to provide resources for states to:

1. Link and institutionalize the capability to link state crash and medical outcome data to identify the medical and financial consequences of motor vehicle crashes.

2. Utilize this information in crash analysis, problem identification, and program evaluation to improve decision-making at the local, state, and national levels related to preventing or reducing deaths, injuries, and direct medical costs associated with motor vehicle crashes.

3. Provide NHTSA with population-based linked crash and injury data to analyze specific highway safety issues of interests to NHTSA in collaboration with the CODES states.

4. Develop data linkage capabilities as a means of improving the quality of state data which support NHTSA's national data.

This cooperative agreement is not intended to fund basic development of data systems. However, it is hoped that this project will inspire those States who have already decided to develop state data to expedite their processes in order to become eligible for CODES funding.

General Project Description

1. Establish a CODES collaborative network.

a. Convene a Board of Directors consisting of the data owners and major users of the State data. The CODES Board of Directors will be responsible for managing and institutionalizing the linked data, establishing the data release policies for the linked data, supporting the administrative functions of the grantee, ensuring that data linkage and application activities are appropriately coordinated within the State, and resolving common issues related to data accessibility, availability, completeness, quality, confidentiality, transfer, ownership, fee for service, management etc. The CODES Board of Directors will meet monthly.

b. Convene a CODES Advisory Group consisting of the CODES Board of Directors and other stakeholders interested in the use of linked data to support highway safety, injury control, EMS, etc. The CODES Advisory Committee will be informed of the results of the data linkage, highway traffic safety uses of the data for decision-making, the quality of the state data for linkage and the quality of the linked data for analysis. The CODES Advisory Committee will meet twice a year.

c. Promote coordination of the various stakeholders through use of the Internet, teleconferencing, joint meetings, and other mechanisms to ensure frequent communication between all parties to minimize the expense of travel.

2. Link population-based crash data to injury outcome data for all persons, injured and uninjured, involved in police-reported motor vehicle crashes for the two most current calendar years of available data since 1994.

a. As a minimum, the CODES linkage should consist of statewide crash data linked to hospital and either EMS or emergency department statewide data, preferably both. States without either statewide EMS or statewide emergency department data are eligible if this type of outpatient information can be obtained in one of the following ways:

(1) Through statewide insurance claims data for every person injured in a motor vehicle crash;

(2) By demonstrating that available EMS or ED data are representative and generalizable for highway traffic safety purposes statewide; or,

(3) By computerizing uncomputerized records to be included in state data files.

b. Linkage to other data files, such as driver licensing, vehicle registration, citation/conviction records, insurance claims, HMO/managed care/etc. outpatient records, etc. may be necessary to support the linkage and/or the state's choice of highway traffic safety application to support highway traffic safety decision-making.

3. Develop at least one state-specific highway traffic safety application important for highway safety and/or motor vehicle injury control decision-making and demonstrate the potential for its impact on reducing death, injury, and direct medical costs associated with motor vehicle crashes.

4. Institutionalize the CODES linkage process and use of linked data for highway traffic safety decision-making by establishing an administrative structure and making the linked data available to users.

a. Assign an agency to be responsible for the linkage and to provide the following:

(1) A computer dedicated to CODES;

(2) A staff member to coordinate CODES activities;

(3) Cross-training of sufficient staff to ensure continuation of the linkage capability in spite of personnel changes during and after the project period;

(4) Loading into the dedicated CODES computer the existing computerized statewide, population-based data files to be linked;

(5) Performing the linkage using the probabilistic software recommended by NHTSA;

(6) Validating the linkage results by evaluating the rate of false positives and

false negatives among the linked and unlinked records;

(7) Maintaining written documentation of the file preparation, linkage and validation processes so that they can be easily replicated after Federal funding ends; and,

(8) Maintaining a data dictionary for the linked data file.

b. Develop resources to make the linked data accessible to all users.

(1) Develop the computer programs needed to produce and distribute routine reports, respond to data requests, and provide access to the linked data for analytical, management, planning, and other purposes;

(2) Develop a public-use version of the linked data, copies of which will be distributed upon request; and,

(3) Use the Internet and other electronic mechanisms to efficiently distribute and share information generated from the linked data.

5. Work collaboratively with NHTSA to implement the Cooperative Agreement.

a. Attend initial briefing and two technical assistance meetings;

b. Provide NHTSA a version of the linked database which conforms to the state laws and regulations governing patient/provider confidentiality, yet satisfies minimum NHTSA data needs;

c. Assist NHTSA when NHTSA uses the state's linked data to analyze specific highway safety issues and report on them; and,

d. Collaborate with NHTSA on developing new uses for the linked data.

NHTSA Involvement

NHTSA will be involved in all activities undertaken as part of the Cooperative Agreement program and will;

1. Provide a Contracting Officer's Technical Representative (COTR) to participate in the planning and management of the Cooperative Agreement and coordinate activities between the grantee and NHTSA.

2. Provide, at no cost to the grantee, training and technical assistance by CODES experts on-site and off-site as necessary during the project to assist the grantee in preparing the files for linkage, implementing probabilistic linkage techniques, validating the linkage results, developing highway traffic safety applications for the linked data, and organizing the CODES Board of Directors and Advisory Committee.

3. Specify the formats for all deliverables to NHTSA.

4. Conduct Initial Briefing at NHTSA Headquarters in Washington, DC (date and time to be scheduled within 30 days after the award). The purpose of the meeting will be to review the goals and objectives of the project, discuss implementation of the linkage software, identify the tasks to be specified in the action plan for the data linkage, evaluate highway traffic safety applications using the linked data for decision-making, and discuss agendas for the Board of Directors and Advisory Committee.

5. Conduct Two Technical Assistance Meetings for the purpose of technology transfer. The first meeting, to be scheduled during the ninth month of funding, will be organized to share data linkage experiences, review the state-specific highway traffic safety applications of linked data, and resolve common problems. The second meeting will be scheduled at the end of the funding period for the purpose of sharing results and making recommendations for future CODES projects. Locations for the Workshops are to be determined based on the location of the Grantees. However, for purposes of cost estimation, assume the Workshops will be held in Washington, DC.

6. Collaboratively work with the state when using the state's linked data to analyze specific highway safety issues and report on them.

Period of Support

The project study effort described in this announcement will be supported through the award of up to six (6) Cooperative Agreements, depending upon the merit of the applications received and the availability of funding. It is anticipated that individual award amounts will range from $200,000–$250,000. Project efforts involving linkage of the state data and applications for the linked data must be completed within eighteen months after funding.

Allowable Uses of Federal Funds

1. For general project requirements, the following cost items are considered to be allowable uses of Federal funds:

a. Costs of personnel resources necessary to perform project management activities, data linkage and processing activities, highway traffic safety applications of linked data for decision-making, and reporting requirements. Personnel may be members of the grantee organization or loaned by organizations represented on the CODES Board of Directors. Because the linkage process is relatively easy to implement in the second year by persons who have linkage experience, it is important that the staff trained under this project be available to repeat the linkage and train others in subsequent years.

b. Costs of a dedicated computer and the software resources (microcomputer(s), of work station, modem, etc.) relative to the volume of records to implement the probabilistic linkage technology and generate, from the linked data, information useful for decision-making. The computer resources must be dedicated for linking the data and generating output from the linked data so that the highway safety and injury control communities have timely access to the linked data when needed to promote highway safety and injury control objectives during and after the project. The computer resources belong to the state's CODES efforts so must be located to facilitate use by CODES data owners and project staff. Funds may not be used to upgrade an existing computer that is primarily used by non-CODES personnel to meet non-CODES-related responsibilities of the organization. The computer and software resources may not be permanently tied to an existing computer network in such a way as to preclude their movement in the future, as directed by the CODES Board of Directors, to another organization more interested in continuing the linkage and highway traffic safety applications for the linked data.

c. Costs, if necessary, to obtain mission data and/or to expedite the computerization of existing statewide data are limited to no more than 20% of the records in those state data files that already have reached at least a 80% computerization rate.

d. Costs, if necessary, to purchase access to existing statewide computerized injury data such as EMS, emergency department, inpatient, census, and claims for linkage.

e. Costs to perform additional edits and logic checks on the databases to be linked to facilitate the data linkage. Specifically, these edits will address data accuracy problems such as: (1) Out of sequence military times for time of crash, time of report to police and/or time of arrival by police at the scene; (2) town and county codes inconsistent with policy and EMS service areas; (3) ages inconsistent with date of birth; (4) hospital destinations inconsistent with the location of the crash; (5) resolving duplicate and unsure matches; and, (6) performing other edits appropriate to the State's data.

f. Costs to convene the CODES Board of Directors and the CODES Advisory Committee.

g. Costs to generate a copy of the linked data for the two most current calendar years of available data since 1994 for transfer to NHTSA in the specified electronic media and format.

h. Costs to create a public use version of the linked data within the state.

i. Costs related to use of the Internet, teleconferencing, joint meetings, and other mechanisms to ensure frequent communication and distribution of the information generated from the linked data among all stakeholders.

j. Costs to develop computer programs to automate the linkage process and generate routine reports to support institutionalization of CODES.

k. Travel costs for up to three (3) CODES staff members to Washington, DC, for initial briefing and two technical assistance meetings.

Eligibility Requirements

The agency will make a maximum of one (1) aware per state. The grantee must be a state agency, or an educational institution or non-profit organization within that state that is associated with motor vehicle injury control. States which have previously been funded to develop CODES are not eligible.

Application Procedure

Each applicant must submit one original and five copies of the application package to: NHTSA, Office of Contracts and Procurement (NAD–30), ATTN: Henrietta R. Mosley 400 7th Street, SW., Room 5301, Washington, DC 20590. Applications must be typed on one side of the page only. Applications must include a reference to NHTSA Cooperative Agreement Program No. DTNH22–98–H–07086. Only complete application packages received on or before 2 P.M., April 30, 1998 will be considered.

Application Content

1. The application package must be submitted with OMB Standard Form 424(REV. 4–88, including 424A and 424B), Application for Federal Assistance, with the required information filled in and certified assurances signed. While the Form 424A deals with budget information and Section B identifies Budget Categories, the available space does not permit a level of detail which is sufficient to provide for a meaningful evaluation of the proposed total costs. A supplemental sheet shall be provided which presents a detailed breakdown of the proposed costs, as well as any costs which the applicant indicates will be contributed in support of this project. Applicants shall assume that awards will be made by September 25, 1998 and should prepare their applications accordingly.

2. The application shall include a program narrative statement of not more than 20 pages which addresses the following as a minimum:

a. A description of the State's current highway traffic safety goals as developed from performance monitoring, SMS or other planning processes aimed at reducing unnecessary death, injury, and costs of injuries resulting from motor vehicle crashes. This description should indicate how the linked data will be important for achieving these goals. In the description include total crashes and total persons involved in crashes by police-reported injury severity level;

b. A description of the proposed organization of the CODES Board of Directors and Advisory Committees and their proposed functions and responsibilities;

c. A brief description of the data files to be linked for this project. The following information should be included for each data file to be linked;

(1) The reporting threshold (including types of records excluded such as uninjured occupants);

(2) Compliance rate statewide:

If data are not statewide, demonstrate that the linkage is feasible in spite of the missing records and that the final linked data file will be representative and generalizable to the entire state for highway traffic safety purposes.

If data file is not completely computerized statewide but the state intends to complete the computerization to make the data available for performance under this cooperative agreement, indicate the percentage of the uncomputerized records statewide to be computerized, the estimated cost, and if this activity will continue in the future without CODES funding.

(3) The date when the data file will be available for use;

(4) A list of the event and person-specific data elements which could be used for linkage; and,

(5) A description of state laws or regulations governing patient/provider confidentiality that will restrict use of the data for linkage and/or transfer of the CODES data file to NHTSA.

d. A description of the proposed plan for linkage including strategies for cross-training sufficient staff to compensate for personnel changes and for ensuring adequate documentation of the file preparation, linkage and validation processes;

e. A description of a suggested highway traffic safety application for linked data that the State will implement to reduce unnecessary death, injury, and costs resulting from motor vehicle crashes and how it was chosen;

f. A description of how the linked data will be made available to users;

g. A description of the resources and experience of the organization proposed to manage the project, particularly related to promoting the collaboration and coordination necessary to successfully complete the project and institutionalize CODES;

h. A description of the capabilities of the CODES team to fulfill the terms of the cooperative agreement, including a brief description of the organizational entity and of the qualifications, employment status (permanent, temporary), current responsibilities, and proposed level of effort for the project director, staff responsible for the linkage, and staff responsible for the state specific highway traffic safety application. Resumes for key personnel should be included in the Appendix;

i. Letter of support from the State's Governor's Highway Safety Representative explaining the importance linked data for performance monitoring, Safe Communities and other highway safety activities in that state; and,

j. A list of the proposed activities in chronological order and a time line to show the expected schedule of accomplishment and their target dates.

3. The application shall include an appendix. A large appendix is strongly discouraged. Additional material other than what is specified below should be included only when necessary to support information about data linkage, highway traffic safety applications for linked data or institutionalization discussed in the application. Do not send copies of brochures, documents etc., developed as the result of a collaborative effort in the State. The appendix should include the following:

a. Letters of support from each proposed member of the CODES Board of Directors. The letter of support should document:

(1) Why linked data are important to the organization;

(2) The organization's need for linked data to support its activities;

(3) The organization's level of commitment in terms of the staff, equipment resources, and/or funding support that will be available for the linkage and/or to institutionalize CODES;

(4) The organization's willingness to collaborate with other data owners to support shared ownership of the linked data; and,

(5) The organization's permission to release the linked data to NHTSA at the end of the project.

b. Letters of support may be submitted from members of the CODES Advisory Committee (excluding the members of

the Board of Directors described above); and,

c. Resumes for the following:

(1) Project Director;

(2) Key personnel proposed for the data linkage; and,

(3) Key personnel proposed to develop highway traffic safety applications for the linked data.

Application Review Process and Evaluation Factors

Initially, all application packages will be reviewed to confirm that the applicant is an eligible recipient and to ensure that the application contains all of the items specified in the Application Content section of this announcement. Each complete application from an eligible recipient will then be evaluated by an Evaluation committee. The applications will be evaluated using the following criteria which are listed in descending order of importance:

1. Technical approach for project completion (40%). The reasonableness and feasibility of the applicant's approach for successfully achieving the objectives of the project within the required time frame. The appropriateness and feasibility of the applicant's proposed plans for data linkage and state specific highway traffic safety applications for the linked data. Evidence that the applicant has the necessary authorization and support from data owners to access the state data, particularly financial and injury severity and type data, which are not routinely available for highway safety analyses.

2. Understanding the intent of the program (20%). The applicant's recognition of the importance of CODES to obtain medical and financial outcome data which are necessary for a comprehensive evaluation of the impact of highway safety and injury control countermeasures. The applicant's understanding of the importance of developing CODES, as a meaningful and appropriate strategy for improving state traffic records capabilities and ensuring the continuation of CODES after completion of this project.

3. Project personnel (20%). The adequacy of the proposed personnel to successfully perform the project study, including qualifications and experience (both general and project related), the various disciplines represented, and the relative level of effort proposed for the professional, technical and support staff.

4. Organizational capabilities (20%). The adequacy of organizational resources and experience to successfully manage and perform the project, particularly to support the collaborative network and respond to the increasing demand for access to the linked data. The proposed coordination with and use of other organizational support and resources, including other sources of financial support.

Depending upon the results of the evaluation process, NHTSA may choose to alter the number of awards. In addition, NHTSA may suggest revisions to applications at a condition of further consideration to ensure the most efficient and effective performance consistent with the objectives of the project. An organizational representative of the National Association of Governors' Highway Safety Representatives will be assisting in NHTSA's technical evaluation process.

Special Award Selection Factors

After evaluating all applications received, in the event that insufficient funds are available to award to all meritorious applications, NHTSA will consider the following special award factors in the award decision.

1. Priority will be given to the applications from those States with statewide crash, hospital, and either Emergency Medical Services or Emergency Department databases;

2. Priority will be given to those States with statewide data that include everyone involved, injured and uninjured, in motor crashes statewide;

3. Priority will be given to those States able to provide the linked data to NHTSA that meets NHTSA's minimum needs with the fewest restrictions against use of such data; and,

4. Priority will be given to applicants who have the highest probability of maintaining the collaborative network of data owners and users, of institutionalizing the linkage of the crash and medical outcome data on a routine basis, and of continuing to respond to data requests after the project is completed.

Terms and Conditions of the Award

1. Prior to award, each grantee must comply with the certification requirements of 49 CFR part 20, Department of Transportation New Restrictions on Lobbying, and 49 CFR part 29, Department of Transportation government-wide Debarment and Suspension (Non-procurement) and Government-wide Requirements for Drug Free Workplace (Grants). In addition, grantees must ensure that all required data release agreements, as applicable, are in place by the owners of the data files being linked to transfer the CODES linked database according to NHTSA specifications to NHTSA for internal analyses by NHTSA staff.

2. Reporting requirements and Deliverables:

a. Attend Initial Briefing Meeting;

b. Detailed Action Plan and Schedule. Within 30 days after the Initial Briefing, the grantee shall deliver a detailed action plan and schedule for accomplishing the data linkage and highway traffic safety application of linked data for decision-making, showing any revisions to the approach proposed in the grantee's application. This detailed action plan will be subject to the technical direction and approval of NHTSA and will describe the following:

(1) Assignment of personnel and purchase of hardware resources required to perform the data linkage.

(2) The process and milestones for resolving problems expected during linkage and their proposed solutions;

(3) The process and milestones for obtaining the different files required for linkage including accelerating the State's data processing, if necessary, so that the statewide data are available in a timely manner for the linkage.

(4) The process and milestones for documenting the file preparation process;

(5) The milestones for performing and documenting the various phases of the probabilistic linkage and validation processes;

(6) The process for identifying the limitations of the final linked database;

(7) The milestones for proposed meeting schedules and actions by the Board of Directors and Advisory Committee;

(8) Milestones for transferring the state's CODES data to NHTSA;

(9) The process for ensuring access to the linked data as the users' demand for information increase; and

(10) The process and milestones for implementing a state specific highway traffic safety application using the linked data that will have the most impact on reducing death, injury, and costs of injuries related to motor vehicle crashes.

c. Detailed Plan to Institutionalize CODES. Within 12 months after the award, the grantee shall deliver a detailed plan to institutionalize CODES. This plan shall include a schedule for obtaining commitment from the CODES Board of Directors and Advisory Committee to continue the CODES linkage and development of new state specific highway traffic safety applications for linked data after federal funding ends showing any revisions to the approach proposed in the grantee's application. This detailed action plan

will be subject to the technical direction and approval of NHTSA;

d. Attend Two Technical Workshops;

e. Progress Reports. The grantee will provide 1-2 page letter-type written progress reports with each request for funds or payment to the NHTSA COTR. These reports will compare what was proposed in the Plan of Action with actual accomplishments during the period of performance; what commitments have been generated; what follow up and support are expected; what problems have been experienced and what may be needed to overcome the problems; and what is specifically planned to be accomplished during the period of performance;

f. Reports of Meetings of CODES Board of Directors and Advisory Committee. Copies of the agenda and minutes for each Board of Directors and Advisory Committee Meeting will be attached to the Progress Report submitted to NHTSA immediately following the meeting;

g. Final Report. The grantee shall deliver to NHTSA, at the end of the project, a final report describing the following:

(1) A description of the state's linked crash and injury data;

(2) A description of the file preparation, linkage, validation processes implemented, the results of the implementation and how they were documented;

(3) A discussion of the limitations of the linked data;

(4) A description of how the State will institutionalize data linkage and continue to use linked data for decision-making;

(5) An estimate of the resources that will be needed to replicate the linkage for subsequent years of data;

(6) A copy of the public-use formats that were successful for incorporating linked data into the State's decision-making processes for highway safety and injury control; and,

(7) A camera ready report describing the highway traffic safety application of linked data implemented by the state and the impact of that application on reducing death, disability, and health care costs resulting from highway traffic safety crashes.

h. CODES Linked Database: The deliverables will include:

(1) The linked database in an electronic media and format acceptable to NHTSA.

(2) Documentation of the definitions and file structure for the linked data file and each of the data elements contained in the linked data files.

(3) An analysis of the quality of the linked data and a description of any data bias which may exist based on an analysis of the false positive and false negative linked records.

3. Cooperative Agreements awarded as a result of this announcement shall be subject to the National Highway Traffic Safety Administration's General Provisions for Assistance Agreements.

Issued: February 2, 1998.

Patricia Breslin,

Director, National Center for Statistics and Analysis, National Highway Traffic Safety Administration.

[FR Doc. 98–2925 Filed 2–6–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–97–3125; Notice 01]

RIN 2127–AH04

Preliminary Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Publication of preliminary theft data; request for comments.

SUMMARY: This document requests comments on data about passenger motor vehicle thefts that occurred in calendar year (CY) 1996, including theft rates for existing passenger motor vehicle lines manufactured in model year (MY) 1996. The theft data preliminarily indicate that the vehicle theft rate for CY/MY 1996 vehicles (3.28 thefts per thousand vehicles) decreased by 8.1 percent from the theft rate for CY/MY 1995 vehicles (3.57 thefts per thousand vehicles).

Publication of these data fulfills NHTSA's statutory obligation to periodically obtain accurate and timely theft data, and publish the information for review and comment.

DATES: Comments must be submitted on or before April 10, 1998.

ADDRESSES: All comments should refer to the docket number and notice number cited in the heading of this document and be submitted, preferably with two copies to: U.S. Department of Transportation, Dockets, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Docket hours are from 10:00 am to 5:00 pm, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Kee's telephone number is (202) 366–0846. His fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: NHTSA administers a program for reducing motor vehicle theft. The central feature of this program is the Federal Motor Vehicle Theft Prevention Standard, 49 CFR Part 541. The standard specifies performance requirements for inscribing or affixing vehicle identification numbers (VINs) onto certain major original equipment and replacement parts of high-theft lines of passenger motor vehicles.

The agency is required by 49 U.S.C. 33104(b)(4) to periodically obtain, from the most reliable source, accurate and timely theft data, and publish the data for review and comment. To fulfill the § 33104(b)(4) mandate, this document reports the preliminary theft data for CY 1996, the most recent calendar year for which data are available.

In calculating the 1996 theft rates, NHTSA followed the same procedures it used in calculating the MY 1995 theft rates. (For 1995 theft data calculations, see 62 FR 44416, August 21, 1997). As in all previous reports, NHTSA's data were based on information provided to the agency by the National Crime Information Center (NCIC) of the Federal Bureau of Investigation. The NCIC is a governmental system that receives vehicle theft information from nearly 23,000 criminal justice agencies and other law enforcement authorities throughout the United States. The NCIC data also include reported thefts of self-insured and uninsured vehicles, not all of which are reported to other data sources.

The 1996 theft rate for each vehicle line was calculated by dividing the number of reported thefts of MY 1996 vehicles of that line stolen during calendar year 1996, by the total number of vehicles in that line manufactured for MY 1996, as reported to the Environmental Protection Agency.

The preliminary 1996 theft data show a decrease in the vehicle theft rate when compared to the theft rate experienced in CY/MY 1995. The preliminary theft rate for MY 1996 passenger vehicles stolen in calendar year 1996 decreased to 3.28 thefts per thousand vehicles produced, a decrease of 8.1 percent from the rate of 3.57 thefts per thousand vehicles experienced by MY 1995 vehicles in CY 1995. For MY 1996 vehicles, out of a total of 203 vehicle lines, 71 lines had a theft rate higher than 3.5826 per thousand vehicles, the established median theft rate for MYs 1990/1991. (See 59 FR 12400, March 16, 1994). Of the 71 vehicle lines with a theft rate higher than 3.5826, 67 are

passenger car lines, 4 are multipurpose passenger vehicle lines, and none are light-duty truck lines.

In Table I, NHTSA has tentatively ranked each of the MY 1996 vehicle lines in descending order of theft rate. Public comment is sought on the accuracy of the data, including the data for the production volumes of individual vehicle lines.

Comments must not exceed 15 pages in length (49 CFR Part 553.21). Attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Dockets. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business regulation. 49 CFR Part 512.

All comments received before the close of business on the comment closing date indicated above for this document will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments on this document will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available for inspection in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Authority: 49 U.S.C. 33101, 33102 and 33104; delegation of authority at 49 CFR 1.50.

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996

Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
1 MITSUBISHI	DIAMANTE	28	600	46.6667
2 MAZDA	MX–3	1	27	37.0370
3 ROLLS-ROYCE	SILVER DAWN	1	31	32.2581
4 TOYOTA	SUPRA	7	275	25.4545
5 CHRYSLER CORP	INTREPID [1]	8	465	17.2043
6 MITSUBISHI	MIRAGE	364	31,933	11.3989
7 TOYOTA	LEXUS GS	27	2,535	10.6509
8 MITSUBISHI	MONTERO	112	11,026	10.1578
9 NISSAN	300ZX	28	2,893	9.6785
10 CHRYSLER CORP	DODGE STEALTH	3	358	8.3799
11 NISSAN	STANZA ALTIMA	719	92,478	7.7748
12 CHRYSLER CORP	PLYMOUTH NEON	779	103,871	7.4997
13 BMW	8	2	267	7.4906
14 TOYOTA	LEXUS SC	34	4,785	7.1055
15 CHRYSLER CORP	DODGE NEON	926	131,821	7.0247
16 CHRYSLER CORP	JEEP GRAND CHEROKEE	1,978	281,814	7.0188
17 SAAB	SAAB 9000	23	3,284	7.0037
18 MITSUBISHI	GALANT	371	54,673	6.7858
19 GENERAL MOTORS	CHEVROLET CORVETTE	137	21,008	6.5213
20 ROLLS-ROYCE	SILVER SPUR	1	155	6.4516
21 HYUNDAI	ACCENT	300	46,691	6.4252
22 MITSUBISHI	ECLIPSE	323	51,055	6.3265
23 CHRYSLER CORP	DODGE STRATUS	622	99,683	6.2398
24 HONDA/ACURA	NSX	3	486	6.1728
25 SUZUKI	SWIFT	12	2,087	5.7499
26 NISSAN	MAXIMA	893	156,602	5.7024
27 MITSUBISHI	EXPO	7	1,230	5.6911
28 FORD MOTOR CO	MERCURY TRACER	74	13,199	5.6065
29 HYUNDAI	SONATA	54	9,694	5.5700
30 TOYOTA	TERCEL	335	60,704	5.5186
31 FORD MOTOR CO	MUSTANG	696	126,357	5.5082
32 CHRYSLER CORP	NEW YORKER/LHS	209	38,284	5.4592
33 TOYOTA	COROLLA	1,136	210,277	5.4024
34 SUZUKI	ESTEEM	32	5,926	5.3999
35 NISSAN	SENTRA/200SX	894	168,554	5.3039
36 GENERAL MOTORS	OLDSMOBILE CUTLASS CIERA	658	124,817	5.2717
37 MERCEDES BENZ	129 (SL–CLASS)	29	5,530	5.2441
38 TOYOTA	LEXUS LS	120	22,919	5.2358
39 HONDA	PRELUDE	50	9,683	5.1637
40 CHRYSLER CORP	DODGE INTREPID	714	145,289	4.9143
41 GENERAL MOTORS	OLDSMOBILE ACHIEVA	173	35,605	4.8589
42 MAZDA	MILLENNIA	56	11,669	4.7990
43 CHRYSLER CORP	PLYMOUTH BREEZE	224	46,718	4.7947
44 CHRYSLER CORP	SEBRING	381	80,480	4.7341
45 FORD MOTOR CO	ASPIRE	143	30,287	4.7215

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996—Continued

Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
46 GENERAL MOTORS	CHEVROLET CORSICA	675	149,133	4.5262
47 NISSAN	INFINITI J30	24	5,340	4.4944
48 FORD MOTOR CO	ESCORT	553	125,391	4.4102
49 TOYOTA	4-RUNNER	295	67,361	4.3794
50 MERCEDES BENZ	140 (S-CLASS)	58	13,320	4.3544
51 HONDA	ACCORD	1,629	377,911	4.3105
52 CHRYSLER CORP	STRATUS [1]	1	232	4.3103
53 GENERAL MOTORS	CHEVROLET LUMINA APV	101	23,522	4.2939
54 GENERAL MOTORS	CHEVROLET CAMARO	261	61,449	4.2474
55 GENERAL MOTORS	BUICK CENTURY	391	92,430	4.2302
56 GENERAL MOTORS	GEO METRO	355	84,371	4.2076
57 TOYOTA	CAMRY	1,447	344,599	4.1991
58 NISSAN	INFINITI Q45	17	4,059	4.1882
59 MITSUBISHI	3000GT	21	5,127	4.0960
60 TOYOTA	PASEO	28	6,837	4.0954
61 NISSAN	240SX	30	7,334	4.0905
62 FORD MOTOR CO	CONTOUR	653	167,572	3.8968
63 BMW	M3	6	1,561	3.8437
64 GENERAL MOTORS	PONTIAC GRAND AM	790	206,435	3.8269
65 MAZDA	626/MX-6	320	84,528	3.7857
66 GENERAL MOTORS	PONTIAC FIREBIRD	116	31,038	3.7374
67 GENERAL MOTORS	CHEVROLET CAVALIER	1,001	269,595	3.7130
68 FORD MOTOR CO	MERCURY MYSTIQUE	189	51,666	3.6581
69 BMW	3	140	38,444	3.6417
70 HONDA	DEL SOL	11	3,034	3.6256
71 HONDA/ACURA	INTEGRA	177	49,077	3.6066
72 CHRYSLER CORP	CIRRUS	156	43,695	3.5702
73 SUZUKI	SIDEKICK	67	18,982	3.5297
74 GENERAL MOTORS	CHEVROLET BERETTA	152	43,270	3.5128
75 HONDA/ACURA	TL	132	37,629	3.5079
76 FORD MOTOR CO	LINCOLN TOWN CAR	314	90,750	3.4601
77 GENERAL MOTORS	PONTIAC TRANS SPORT	56	16,355	3.4240
78 HYUNDAI	ELANTRA	96	28,040	3.4237
79 FORD MOTOR CO	EXPLORER	1,427	419,288	3.4034
80 CHRYSLER CORP	EAGLE VISION	43	12,830	3.3515
81 KIA MOTORS	SEPHIA	89	27,048	3.2904
82 MAZDA	PROTÉGÉ	196	59,602	3.2885
83 CHRYSLER CORP	DODGE AVENGER	126	38,949	3.2350
84 CHRYSLER CORP	EAGLE SUMMIT	3	932	3.2189
85 AUDI	CABRIOLET	4	1,258	3.1797
86 CHRYSLER CORP	DODGE B1500/B2500 VAN	5	1,594	3.1368
87 BMW	7	19	6,134	3.0975
88 CHRYSLER CORP	JEEP CHEROKEE	575	187,936	3.0596
89 FORD MOTOR CO	THUNDERBIRD	259	85,015	3.0465
90 GENERAL MOTORS	PONTIAC GRAND PRIX	232	77,375	2.9984
91 TOYOTA	LEXUS ES	121	41,140	2.9412
92 GENERAL MOTORS	GEO PRIZM	215	73,200	2.9372
93 GENERAL MOTORS	BUICK SKYLARK	121	41,856	2.8909
94 CHRYSLER CORP	EAGLE TALON	33	11,518	2.8651
95 NISSAN	PATHFINDER	161	56,635	2.8428
96 NISSAN	INFINITI I30	100	35,950	2.7816
97 CHRYSLER CORP	DODGE VIPER	5	1,812	2.7594
98 TOYOTA	CELICA	28	10,293	2.7203
99 ISUZU	TROOPER	48	17,881	2.6844
100 GENERAL MOTORS	CADILLAC DEVILLE	285	107,649	2.6475
101 FORD MOTOR CO	PROBE	79	30,146	2.6206
102 FORD MOTOR CO	TAURUS	1,031	393,897	2.6174
103 ISUZU	RODEO	115	44,067	2.6097
104 GENERAL MOTORS	PONTIAC SUNFIRE	251	97,143	2.5838
105 CHRYSLER CORP	DODGE DAKOTA PICKUP	249	96,653	2.5762
106 GENERAL MOTORS	GEO TRACKER	138	53,907	2.5600
107 HONDA	CIVIC	598	233,620	2.5597
108 FORD MOTOR CO	LINCOLN MARK VIII	34	13,331	2.5504
109 PORSCHE	911	19	7,456	2.5483
110 TOYOTA	TACOMA PICKUP TRUCK	322	132,011	2.4392
111 VOLKSWAGEN	JETTA	202	83,898	2.4077
112 GENERAL MOTORS	PONTIAC BONNEVILLE	166	69,642	2.3836
113 FORD MOTOR CO	MERCURY SABLE	293	123,305	2.3762

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996—Continued

Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
114 JAGUAR	XJ6	18	7,658	2.3505
115 GENERAL MOTORS	OLDSMOBILE SILHOUETTE	14	6,128	2.2846
116 GENERAL MOTORS	CHEVROLET CAPRICE	135	60,201	2.2425
117 CHRYSLER CORP	PLYMOUTH VOYAGER	411	183,469	2.2402
118 GENERAL MOTORS	CHEVROLET BLAZER S–10	569	254,875	2.2325
119 HONDA/ACURA	SLX	8	3,589	2.2290
120 CHRYSLER CORP	NEON[1]	2	909	2.2002
121 TOYOTA	AVALON	145	65,924	2.1995
122 MAZDA	MX–5 MIATA	41	18,994	2.1586
123 NISSAN	INFINITI G20	33	15,509	2.1278
124 GENERAL MOTORS	OLDSMOBILE CUTLASS SUPREME	157	74,371	2.1110
125 TOYOTA	T100 PICKUP TRUCK	80	37,941	2.1085
126 FORD MOTOR CO	MERCURY COUGAR	80	38,919	2.0556
127 GENERAL MOTORS	GMC JIMMY S–15	170	83,199	2.0433
128 GENERAL MOTORS	CADILLAC ELDORADO	40	20,040	1.9960
129 GENERAL MOTORS	BUICK REGAL	199	99,729	1.9954
130 MERCEDES BENZ	202 (C-CLASS)	48	24,200	1.9835
131 GENERAL MOTORS	CHEVROLET LUMINA/MONTE CARLO	596	302,631	1.9694
132 JAGUAR	XJ12	1	509	1.9646
133 HONDA	PASSPORT	49	25,041	1.9568
134 VOLKSWAGEN	CABRIO	10	5,155	1.9399
135 VOLVO	850	118	60,899	1.9376
136 GENERAL MOTORS	CHEVROLET ASTRO VAN	143	74,183	1.9277
137 TOYOTA	RAV4	81	42,646	1.8994
138 CHRYSLER CORP	DODGE CARAVAN	629	344,553	1.8256
139 NISSAN	PICKUP TRUCK	179	99,156	1.8052
140 TOYOTA	PREVIA VAN	14	8,022	1.7452
141 FORD MOTOR CO	RANGER PICKUP TRUCK	490	282,203	1.7363
142 HONDA/ACURA	RL	26	15,176	1.7132
143 GENERAL MOTORS	CHEVROLET S–10 PICKUP	350	208,469	1.6789
144 FORD MOTOR CO	WINDSTAR VAN	376	231,107	1.6270
145 GENERAL MOTORS	SATURN SC	82	50,439	1.6257
146 AUDI	A4	25	15,407	1.6226
147 GENERAL MOTORS	OLDSMOBILE BRAVADA APV	20	12,525	1.5968
148 MAZDA	B SERIES PICKUP TRUCK	73	45,730	1.5963
149 VOLKSWAGEN	GOLF/GTI	36	22,747	1.5826
150 JAGUAR	XJS	5	3,235	1.5456
151 GENERAL MOTORS	OLDSMOBILE 88	83	53,916	1.5394
152 MERCEDES BENZ	124 (E–CLASS)	29	19,001	1.5262
153 FORD MOTOR CO	LINCOLN CONTINENTAL	41	27,829	1.4733
154 GENERAL MOTORS	GMC SONOMA PICKUP TRUCK	73	50,795	1.4371
155 FORD MOTOR CO	MERCURY GRAND MARQUIS	136	95,020	1.4313
156 SUZUKI	X–90	7	4,907	1.4265
157 GENERAL MOTORS	GMC SAFARI VAN	32	22,540	1.4197
158 CHRYSLER CORP	CONCORDE	71	50,123	1.4165
159 GENERAL MOTORS	CADILLAC SEVILLE	46	33,641	1.3674
160 VOLKSWAGEN	PASSAT	25	18,770	1.3319
161 GENERAL MOTORS	SATURN SL	273	210,472	1.2971
162 JAGUAR	VANDEN PLAS	6	4,688	1.2799
163 FORD MOTOR CO	AEROSTAR VAN	75	59,468	1.2612
164 NISSAN	QUEST	56	45,543	1.2296
165 GENERAL MOTORS	BUICK RIVIERA	20	17,389	1.1502
166 GENERAL MOTORS	BUICK PARK AVENUE	53	47,008	1.1275
167 MAZDA	MPV	16	14,595	1.0963
168 VOLVO	960	20	18,266	1.0949
169 CHRYSLER CORP	TOWN & COUNTRY MPV	113	105,993	1.0661
170 KIA MOTORS	SPORTAGE	9	8,638	1.0419
171 SUBARU	LEGACY	82	79,809	1.0275
172 ISUZU	HOMBRE PICKUP TRUCK	13	12,993	1.0005
173 ISUZU	OASIS	4	4,001	0.9998
174 FORD MOTOR CO	MERCURY VILLAGER MPV	53	57,403	0.9233
175 GENERAL MOTORS	OLDSMOBILE AURORA	20	22,349	0.8949
176 FORD MOTOR CO	CROWN VICTORIA	95	108,250	0.8776
177 CHRYSLER CORP	CARAVAN[1]	1	1,140	0.8772
178 SUBARU	IMPREZA	14	16,337	0.8570
179 GENERAL MOTORS	SATURN SW	14	16,539	0.8465
180 SAAB	SAAB 900	19	22,516	0.8438
181 GENERAL MOTORS	CADILLAC FLEETWOOD	7	8,346	0.8387

THEFT RATES OF MODEL YEAR 1996 PASSENGER MOTOR VEHICLES STOLEN IN CALENDAR YEAR 1996—Continued

Manufacturer	Make/model (line)	Thefts 1996	Production (Mfr's) 1996	1996 (per 1,000 vehicles produced) theft rate
182 GENERAL MOTORS	BUICK FUNERAL COACH/HEARSE	1	1,457	0.6863
183 GENERAL MOTORS	BUICK LESABRE	33	52,129	0.6330
184 BMW	Z3	6	11,542	0.5198
185 GENERAL MOTORS	BUICK ROADMASTER	11	21,495	0.5117
186 HONDA	ODYSSEY	8	19,266	0.4152
187 GENERAL MOTORS	OLDSMOBILE 98	5	14,383	0.3476
188 AUDI	A6	3	9,269	0.3237
189 FIAT	FERRARI F355	0	286	0.0000
190 GENERAL MOTORS	GMC C1500 SIERRA PICKUP	0	5,912	0.0000
191 GENERAL MOTORS	GMC G1500/2500 SAVANA VAN	0	2,113	0.0000
192 GENERAL MOTORS	CHEVROLET G1500/2500 CHEVYVAN	0	9,271	0.0000
193 GENERAL MOTORS	CHEVROLET C1500 PICKUP	0	14,441	0.0000
194 GENERAL MOTORS	CADILLAC LIMOUSINE	0	1,598	0.0000
195 JAGUAR	XJR	0	506	0.0000
196 LAMBORGHINI	DB132/DIABLO	0	35	0.0000
197 MITSUBISHI	PICKUP TRUCK	0	725	0.0000
198 ROLLS-ROYCE	BENTLEY CONTINENTAL R	0	47	0.0000
199 ROLLS-ROYCE	BENTLEY BROOKLANDS	0	87	0.0000
200 ROLLS-ROYCE	BENTLEY AZURE	0	84	0.0000
201 ROLLS-ROYCE	BENTLEY TURBO R/TURBO RL	0	66	0.0000
202 SUBARU	SVX	0	852	0.0000
203 VECTOR AEROMOTIVE	AVTECH SC/M12	0	11	0.0000

[1] Special production of vehicles for sale only in Puerto Rico under the Chrysler nameplate.

Issued: January 29, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–3196 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 98–1]

Supplemental Emergency Preparedness Grant Program

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice.

SUMMARY: RSPA is providing notice of the availability of grant funds in the amount of $250,000 and soliciting applications from national nonprofit employee organizations engaged solely in fighting fires to train instructors to conduct hazardous materials response training programs. RSPA also seeks comments on the provisions contained in this notice in order to improve operation of the program. Grant application packages, reflecting comments made, will be available on April 1, 1998.

DATES: *Comments.* Comments must be submitted on or before March 10, 1998.

Applications. Applications must be submitted by May 15, 1998.

ADDRESSES: Address comments and applications to the Grants Unit, DHM–64, Room 8104, Research and Special Programs Administration, Department of Transportation, 400 Seventh St., SW, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Charles G. Rogoff, Grants Manager, Office of Hazardous Materials Planning and Analysis, Research and Special Programs Administration, Department of Transportation, 400 Seventh St., SW, Washington, DC 20590–0001, telephone: (202) 366–0001.

SUPPLEMENTARY INFORMATION:

Introduction

The Hazardous Materials Transportation Authorization Act of 1994 (HMTAA; Pub. L. 103–311) amended 49 U.S.C. 5116 and added a new subsection (j) concerning supplemental training grants. These supplemental grants are intended to further the purposes of the State and Indian tribe grants under section 5116(b) to train public sector employees to respond to accidents and incidents involving hazardous material. Section 5116(j)(1) provides that the Secretary of Transportation shall, subject to the availability of funds, make grants to national nonprofit employee organizations engaged solely in firefighting to train instructors to conduct training programs for individuals responding to hazardous materials accidents. Section 5116(j)(2) requires the Secretary to consult with interested organizations to identify regions or locations in which fire departments are in need of training and prioritize those needs. Section 5116(j)(3) provides that funds granted to an organization may only be used to train instructors to conduct hazardous materials response training programs, to purchase equipment used to train those instructors, and to disseminate information necessary to conduct those training programs. Section 5116(j)(4) provides that a grantee must agree to use courses developed under the National Training Curriculum, and section 5116(j)(5) provides that the Secretary may impose such additional terms and conditions on grants as the Secretary determines are necessary to carry out the objectives of the supplemental grant program. RSPA asks comments to address the definitions of eligible applicants and criteria for grant selection described below.

Availability of Funds

Section 119(b) of the HMTAA amended 49 U.S.C. 5127(b) to provide that there shall be available to the Secretary, from the registration fee account established under section 5116(i), $250,000 for each of fiscal years 1995, 1996, 1997, and 1998 (60 Federal Register 4,657, January 24, 1995). Under section 5116(i), amounts in the registration fee account are available without further appropriation.

Approximately $250,000 is projected to be available in fiscal year 1998. Awards will be made for a 12-month budget period.

Eligible Applicants

By law, grants are intended for "national nonprofit employee organizations engaged solely in fighting fires for the purpose of training instructors to conduct hazardous materials response training programs for individuals with statutory responsibility to respond to hazardous materials accidents and incidents." 49 U.S.C. 5116(j)(1). RSPA interprets the first part of the quoted phrase to mean nonprofit organizations with employee members who fight fires.

Objectives of the Grant Program

RSPA expects that, by training additional instructors, course deliveries to hazardous materials emergency responders will increase. Because many responders cannot leave their immediate locations for extended periods of time, due to budget and other limitations, one way to deliver training to them is to train sufficient instructors for required course deliveries at convenient locations.

As provided by statute, funds awarded to an organization under this grant program may only be used to train instructors to conduct hazardous materials response training programs, to purchase training equipment used exclusively to train instructors to conduct those training programs, and to disseminate information and materials necessary for the conduct of those training programs. RSPA will make a grant to an organization under this program only if the organization enters into an agreement with RSPA to train instructors, on a nondiscriminatory basis, to conduct hazardous materials response training programs using a course or courses developed or identified as qualified under the curriculum guidelines prepared by RSPA and its interagency partners, or other courses that RSPA determines are consistent with the objectives of the curriculum guidelines.

Grant Application Requirements

Grants will be awarded on a competitive basis. Applications shall, at a minimum, discuss the following requirements:

(1) How applicants intend to provide training for instructors of individuals with statutory responsibility to respond to accidents and incidents involving hazardous materials.

(2) The regions or locations in which fire departments or other organizations providing emergency response to hazardous materials transportation accidents and incidents require hazardous materials training and the method used to identify those needs.

(3) Prioritized training needs, and a description of the means for identifying additional specific training needs.

(4) A statement of work that describes and sets priorities for the activities and tasks to be conducted, the costs associated with each activity, the number and types of deliverables and products to be completed, and a schedule for implementation, including availability to present an interim report at a HMEP Workshop.

In addition, since RSPA expects that the amount of funds requested by all applicants may exceed a total of $250,000, applicants should provide a prioritized listing of specific program tasks to be performed and the cost of each task.

RSPA encourages the addition of non-Federal funds to support the project, but does not require cost sharing. Program funding is dependent on collection of registration fees and may be less than the authorized amount. Applications must be submitted by May 15, 1998. An application kit will be available from RSPA on April 1, 1998.

Issued in Washington, DC, on February 4, 1998.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 98–3194 Filed 2–6–98; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 98–11]

Country of Origin Marking Requirements for Imported Footwear

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Policy statement.

SUMMARY: This notice advises interested parties that Treasury Decision 86–129, which pertains to the country of origin marking of footwear and footwear containers, was effectively revoked by the amendment of § 134.46, Customs Regulations, published as Treasury Decision 97–72, and that footwear and/or its container must be marked in accordance with § 134.46, as amended.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Karen S. Greene, Special Classification and Marking Branch (202) 927–2312.

SUPPLEMENTARY INFORMATION:

Background

Section 304 of the Tariff Act of 1930, as amended, 19 U.S.C. 1304, provides that, unless excepted, every article of foreign origin (or its container) imported into the U.S. shall be marked in a conspicuous place as legibly, indelibly and permanently as the nature of the article (or its container) will permit, in such a manner as to indicate to the ultimate purchaser in the U.S. the English name of the country of origin of the article. Part 134, Customs Regulations (19 CFR part 134), implements the country of origin marking requirements and exceptions of 19 U.S.C. 1304.

Section 134.46, Customs Regulations (19 CFR 134.46), concerns how articles should be marked when the name of a country other than the country of origin appears on the article or its container. Section 134.46 was recently amended by Treasury Decision (T.D.) 97–72, published in the **Federal Register** (62 FR 44221) on August 20, 1997.

Prior to its amendment by T.D. 97–72, § 134.46 provided as follows:

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or locality in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced, appear on an imported article or its container, there shall appear, legibly and permanently, in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

Furthermore, 19 CFR 134.36(b) provided that in circumstances in which either 19 CFR 134.46 or 134.47 was applicable, no exception from marking would apply.

In accordance with the above reading of § 134.46, Customs, in T.D. 86–129, published in the **Federal Register** (51 FR 24814) on July 9, 1986, set forth a policy statement regarding its application of the country of origin marking requirements for imported footwear and its containers where the name of a country other than the country of origin appears. In T.D. 86–129, Customs established a policy of strict application of that provision in the case of imported footwear and shoe boxes, whereby all requirements of § 134.46 (e.g. proximity, size, etc.) would be applicable regardless of whether the locality reference in the marking was misleading or deceptive.

The amendment of § 134.46 by T.D. 97–72 has effectively revoked T.D. 86–

129. As amended by T.D. 97–72, § 134.46 now provides:

In any case in which the words "United States," or "American," the letters "U.S.A.," any variation of such words or letters, or the name of any city or location in the United States, or the name of any foreign country or locality other than the country or locality in which the article was manufactured or produced appear on an imported article or its container, and those words, letters or names may mislead or deceive the ultimate purchase as to the actual country of origin of the article, there shall appear legibly and permanently in close proximity to such words, letters or name, and in at least a comparable size, the name of the country of origin preceded by "Made in," "Product of," or other words of similar meaning.

As a result of T.D. 97–72, § 134.46 no longer is applicable on an automatic basis dependent solely on the presence of the other locality marking on the article, but rather is now expressly based on a preliminary finding that the locality information may mislead or deceive the ultimate purchaser.

In view of the fact that T.D. 86–129 is entirely inconsistent with § 134.46, as amended by T.D. 97–72, T.D. 97–72 effectively revoked T.D. 86–129. This document expressly informs interested members of the public of the revocation of T.D. 86–129. Consistent with § 134.46, footwear and/or its containers must be marked in accordance with the requirements of 19 CFR 134.46 only if the locality marking on imported footwear and its containers may mislead or deceive the ultimate purchaser as to the actual country of origin of the article.

Dated: February 3, 1998.

Stuart P. Seidel,

Assistant Commissioner, Office of Regulations and Rulings.

[FR Doc. 98–3158 Filed 2–6–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

Denial of Application for Recordation of Trade Name: "WINFING"

ACTION: Denial of Application for Recordation of Trade Name, DOT.

SUMMARY: By notice published in the **Federal Register** dated June 27, 1997, application was filed pursuant to section 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "WINFING," used by PrintScan International, Inc., a corporation organized under the laws of the State of New Jersey, located at 1432 Drum Hill Road, Martinsville, New Jersey 08836.

The application states that the alleged trade name is used in connection with a demonstration and evaluation software. Its main purpose is to give an insight into the internal working mechanism of the PrintScan core library and to demonstrate the performance of the fingerprint analysis procedure.

Before final action was taken on the application, consideration was given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this alleged trade name. No comments were received relative to this application.

Customs has completed its review of this matter and has determined that the word "Winfing" is not used as a trade name, but rather, in a trademark sense with demonstration and evaluation software. Accordingly, the application is denied.

FOR FURTHER INFORMATION CONTACT: George F. McCray, Esq., Intellectual Property Rights Branch, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229 (202–927–2330).

Dated: February 3, 1998.

John F. Atwood,

Chief, Intellectual Property Rights Branch.

[FR Doc. 98–3157 Filed 2–6–98; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Quarterly Publication of Individuals, Who Have Chosen To Expatriate, as Required by Section 3069F

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This notice is provided in accordance with IRC section 3069F, as amended, by the Health Insurance Portability and Accountability Act (HIPPA) of 1996. This listing contains the name of each individual losing United States citizenship (within the meaning of section 877(a)) with respect to whom the Secretary received information during the quarter ending December 31, 1997.

Last name	First name	Middle name
AHLUWALIA	PAVAN	SINGH.
ALEXANDER	MYOUNG	SUK.
ARDIE	AGUSTINA	DOROTHEA.
BAUMEISTER	ERICH.	
BENDER	JUERGEN	EDWARD.
BERRY	YON	HWA.
BREWBAKER JR.	HAROLD	KEITH.
BROOK	SLIVE	LYNDON.
BROWN-SOUDER	MARIE	ELISE.
BRUCKER	KATHERINE	A.
CAGNINA	MICHELE	JOSEE.
CAMILLERI	RITA	ANNA.
CAMILLERI	JENNIFER	MARCIA.
CARSWELL	ANDREW	GORDON.
CASSAR	MARK	ANTONY.
CATHERWOOD	WEBSTER.	
CAZIER	NICOLE	LEILANI.
CHAN	CHI	STEVE.
CHANG	AIJA	LEE.
CHANG	MIGUEL	YEN-SHEE.
CHANG	HEATHER	ANN.
CHENK-YAU	THOMAS	PAK.
CHO	HEECHAN.	
CHOI	STEVE	JAEWON.
CHOW	WILLIAMS	WAILAP.

Last name	First name	Middle name
CHU	CHUNG	KIT-PHILIP.
CLARK	JONATAN	EARL-WILLIAM.
CLUTTERBUCK	ALAN	RALPH.
CORSO	OK	SUN.
CROSS-MEADOWS	PATRICIA	AMME.
DAVIS	ALICE	NOREEN-SOPHIE.
DE LONG	MARJA	GRIETJE.
DEBONO	RUTH	LOUISE.
DEFRIEST	VIRGINIA	ANN.
DEHNE	ACHIM	HERBERT.
DITLEVSEN	TRINE.	
ECKEL	CARIN	DENISE.
FANSHAWE	SABLE	MELANIE.
FARSTAD	MARGARET	HAUGEN.
FEDORA	SHARON	KAY.
FEDORA	ORESTES.	
FINNICUM	ROBERT	MANUAL.
FONG	ANTHONY	CHUNG-KAU.
FRENI	STAN	CONSTANT.
GENSING	SONJA.	
HIOE	TONY	TSUN-CHAO.
HOLLEY	ROBERT	BRADLEY.
HOLLY	MARGARET	A.
HONG	BOONG	HEE.
HONG	CHUN	BOK.
HUANG	TSONG	JEN.
HUBER	HANS	FREIDRICH.
HUO	REN	WAI-CHIU.
ISAACSON	BRIGITTE	MICHELLE.
JEDINAK	RUSSELL	MICHAEL.
JEDINAK	REBECCA	MANLEY.
JOHN	CARLES.	
JOHNSON	TAE	SUK.
JUHON	KUMBOK.	
JUNCO-ABARCA	ALDA	MARGARITA.
JUNCO-ABARCA	ANGEL	LUIS.
KIM	BUMMAN	RUSSELL.
KIM	YOUNGSOOK	ROSA.
KIM	YOUNG	MI.
KIM	CHUNG	JA.
KING	WALTER	WING-KEUNG.
KLIEN	PAUL	RICHARD.
KOOMSON	KOBENA	ARTHUR.
KUNSMANN	MICHAEL	RAJ.
KWAK	KWANG	JA.
LAI	MARGARET	MEI-YEE.
LAMB	CHARLES	WILSON.
LAWSON JR	DALE	LOUIS.
LEE	WOODROW	WOONG-MOO.
LEE	ME YOUNG	KO.
LEE	CHUL.	
LEE	MESANG.	
LEVY	EDWIN.	
LIGHTBOURN	HELEN	MAE.
LIOK	VANESSA	MARIE.
LOHR	SIGRID	GISELA.
LOZOWY	IVAN.	
MAAS	CHRISTEL	MARIA.
MEDITZ	THOMAS	JOERG.
MELLO	JOSE	BARBOSA.
NAMKAD	DHWANI	NARENDRA.
NEICHIN	STEVEN	MICHAEL.
NOCODEMUS	SUN	CHA (YI).
OSTERFELT-NEE WEINSTEIN	FRANCES	MIRIAM.
PARR	EDITH	HEIDI.
PASLEY	MAX	WARREN.
PASLEY-NEE GUESSFORD	HELEN	IRENE.
PETTERSON	GORDON	ANDREW.
PHILLSBURY	FREDERICK	STEPHEN.
PISANI	SYLVIA.	
PROTELLI	KEVIN	MARIO.
PYE	HARVEY	GEORGE.
RELECOM	BERANGERE	MARIE.
RIEB-SHOULDICE	TERRY	ELIZABETH.

Last name	First name	Middle name
RUSSELL	CHONG	MI.
SCHAEFER	JOANNES	MAX.
SCOTT	WILLIAM	DAVID.
SHAPIRO	ROBERT	K.
SHAPIRO	STANLEY	JACK.
SHOULDICE	CYNTHIA	JANE.
SINCLAIR	ANDREA	MARGARET.
STASIUK	JOSEPH	WILLIAM.
SUZUKI	TAKAKO	TRICIA.
SWANBERG	KARL	DAVID.
TALBOT-ANDERSEN	SANDRA	MARY.
VESEY	THOMAS	WINTHROP-PENISTON.
WAGNER	TAMARA	LAKECIA.
WALVICK	BRENDA	EDITH.
WHEATLEY	JOHN	PAUL.
WONG	WILLAM	WEN-YUAN.
YANG	EUN	AE.

Approved: January 27, 1998.

Doug Rogers,

Project Manager, International District Operations.

[FR Doc. 98–3202 Filed 2–6–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–9: OTS No. 3901]

The Home Loan Savings Bank, Coshocton, Ohio; Approval of Conversion Application

Notice is hereby given that on January 30, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of The Home Loan Savings Bank, Coshocton, Ohio, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Central Regional Office, Office of Thrift Supervision, 200 West Madison Street, Suite 1300, Chicago, Illinois 60606.

Dated: February 3, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–3105 Filed 2–6–98; 8:45 am]

BILLING CODE 6720–01–M

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

[AC–8: OTS No. 3953]

Quitman Federal Savings Bank, Quitman, Georgia; Approval of Conversion Application

Notice is hereby given that on January 27, 1998, the Director, Corporate Activities, Office of Thrift Supervision, or here designee, acting pursuant to delegated authority, approved the application of Quitman Federal Savings Bank, Quitman, Georgia, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, and the Southeast Regional Office, Office of Thrift Supervision, 1475 Peachtree Street, N.E., Atlanta, GA 20209.

Dated: February 3, 1998.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 98–3106 Filed 2–6–98; 8:45 am]

BILLING CODE 6720–01–M

federal register

Monday
February 9, 1998

Part II

Department of Labor

Office of the Secretary

29 CFR Part 24

Procedures for Handling Discrimination Complaints Under Federal Employee Protection Statutes; Final Rule

DEPARTMENT OF LABOR

Office of the Secretary

29 CFR Part 24

RIN 1215–AA83

Procedures for the Handling of Discrimination Complaints Under Federal Employee Protection Statutes

AGENCY: Office of the Secretary and the Occupational Safety and Health Administration, Labor.

ACTION: Final rule.

SUMMARY: This document provides the final text of revised regulations governing the employee protection ("whistleblower") provisions of Section 211 (formerly Section 210) of the Energy Reorganization Act of 1974, as amended, to implement the statutory changes enacted into law on October 24, 1992, as part of the Energy Policy Act of 1992. This rule establishes separate procedures and time frames for the handling of ERA complaints to implement the statutory amendments. In addition, the rule establishes a revised procedure for review by the Administrative Review Board (on behalf of the Secretary) of decisions of administrative law judges under all of the various environmental employee protection provisions. The rule also reflects the transfer of responsibility for administration of these statutes from the Administrator of the Wage and Hour Division to the Assistant Secretary for Occupational Safety and Health.

DATES: This final rule is effective March 11, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas Buckley, Director, Office of Investigative Assistance, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3468, 200 Constitution Avenue, NW., Washington, D.C. 20210, (202) 219–8095. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992, Public Law 102–486, was enacted on October 24, 1992. Among other provisions, this new law significantly amended the employee protection provisions for nuclear whistleblowers under former Section 210 of the Energy Reorganization Act of 1974, as amended ("ERA"), now Section 211, 42 U.S.C. 5851(b)(1). The amendments affect only ERA whistleblower complaints and do not extend to the procedures established in 29 CFR Part 24 for handling employee whistleblower complaints under the six other environmental employee protection statutes. The amendments to ERA apply to whistleblower claims filed on or after October 24, 1992, the date of enactment of Section 2902 of the Energy Policy Act of 1992.

A notice of proposed rulemaking and request for comments was published in the **Federal Register** on March 16, 1994 (59 FR 12506). The **Federal Register** notice provided for a comment period until May 16, 1994. A total of four comments were received during the comment period on the proposed regulations, all from employers or representatives of employers. The major issues raised by the commenters are identified below, as are the significant changes that have been made in the final regulatory text in response to the comments received. In addition to the substantive comments discussed below, commenters submitted minor editorial suggestions, some of which have been adopted and some of which have not been adopted.

Paperwork Reduction Act

This regulation contains no new reporting or recordkeeping requirements. Reporting requirements contained in the regulations (§ 24.3) were previously reviewed and approved for use through February 28, 1998 by the Office of Management and Budget (OMB) and assigned OMB control number 1215–0183 under the provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13).

Summary of Statutory Changes to ERA Whistleblower Provisions

Section 2902 of Public Law 102–486 (106 Stat. 2776) amended former Section 210 of the ERA, 42 U.S.C. 5851, by renumbering it as Section 211 of the ERA and making the additional changes described below.

Prohibited Acts

Former Section 210 of the ERA protected an employee against discrimination from an employer because the employee: (1) commenced, caused to be commenced, or was about to commence or cause to be commenced a proceeding under the ERA or the Atomic Energy Act of 1954 ("AEA"); (2) testified or was about to testify in any such proceeding; or (3) assisted or participated or was about to assist or participate in any manner in such a proceeding "* * * or in any other action to carry out the purposes of [the ERA or the AEA]." The Department's consistent interpretation, under former Section 210 of the ERA as well as the other environmental whistleblower laws which the Department of Labor ("DOL") administers, has been that employees who file complaints internally with an employer are protected from employer reprisals. An employee is protected under 29 C.F.R. 24.2(b)(3) if an employee assists or participates in "* * * any other action to carry out the purposes of such Federal [environmental protection] statute," which would encompass such internal complaints. This conclusion, that whistleblower protections extend to internal safety and quality control complaints, has been sustained by a number of courts of appeals. See, e.g., *Mackowiak* v. *University Nuclear Systems, Inc.*, 735 F.2d 1159, 1163 (9th Cir. 1984); *Kansas Gas & Elec. Co.* v. *Brock*, 780 F.2d 1505 (10th Cir. 1985), *cert. denied*, 478 U.S. 1011 (1986); *Passaic Valley Sewerage Commissioner* v. *Department of Labor*, 992 F.2d 474 (3rd Cir. 1993), *cert. denied*, 62 U.S. L.W. 3334 (1993). *Contra*, *Brown & Root, Inc.* v. *Donovan*, 747 F.2d 1029 (5th Cir. 1984). Under the Energy Policy Act of 1992, ERA's statutory definition of protected whistleblower activity was expanded expressly to include employees who file internal complaints with employers (thereby overriding the decision of the Fifth Circuit in *Brown & Root*), employees who oppose any unlawful practice under the ERA or the AEA, and employees who testify before Congress or in any other Federal or State proceeding regarding the ERA or AEA.

Revised Definition of "Employer"

Former Section 210 of the ERA included within the definition of a covered "employer" licensees of the Nuclear Regulatory Commission ("NRC"), applicants for such licenses, and their contractors and subcontractors. The statutory amendments revised the definition of "employer" to extend coverage to employees of contractors or subcontractors of the Department of Energy ("DOE"), except those involved in naval nuclear propulsion work under E.O. 12344, licensees of an agreement State under Section 274 of the Atomic Energy Act of 1954, applicants for such licenses, and their contractors and subcontractors.

Time Period for Filing Complaints

The time period for filing ERA whistleblower complaints was expanded from 30 days to 180 days from the date the violation occurs. Investigations of complaints, however, are still to be conducted under the statute within 30 days of receipt of the complaint. The ERA amendments apply to all complaints filed on or after the date of enactment.

Interim Relief

The Secretary is required under the amended ERA to order interim relief upon the conclusion of an administrative hearing and the issuance of a recommended decision that the complaint has merit. Such interim relief includes all relief that would be included in a final order of the Secretary except compensatory damages.

Burdens of Proof; Avoidance of Frivolous Complaints

The 1992 Amendments revised the burdens of proof in ERA cases by establishing statutory burdens of proof and a standard for the dismissal of complaints which do not present a *prima facie* case. Before the 1992 Amendments, the ERA itself contained no statutory rules on burdens of proof—the burdens of proof were based on precedential cases derived from other discrimination law (see, e.g., *Mt. Healthy City School District Board of Education* v. *Doyle*, 429 U.S. 274 (1977); *Texas Department of Community Affairs* v. *Burdine*, 450 U.S. 248 (1981); *Mackowiak* v. *University Nuclear Systems, Inc.*, 735 F.2d 1159 (9th Cir. 1984); and *Dartey* v. *Zack Company of Chicago*, Case No. 82–ERA (Decision of the Secretary, April 25, 1983)).

Under the former lines of analysis for the ERA and continuing for whistleblower complaints under the other six environmental statutes, once a complainant employee presents evidence sufficient to raise an inference that protected conduct likely was a "motivating" factor in an adverse action taken by an employer against the employee, it is necessary for the employer to present evidence that the alleged adverse treatment was motivated by legitimate, nondiscriminatory reasons. If the employer presents such evidence, the employee still may succeed by showing that the proffered reason was pretextual, that is, that a discriminatory reason more likely motivated the employer. The complainant thus bears the ultimate burden of proving by a preponderance of the evidence that he or she was retaliated against in violation of the law. In such "pretext" cases, the factfinder's disbelief of the reasons put forward by the employer, together with the elements of the *prima facie* case, may be sufficient to show such intentional discrimination. See *St. Mary's Honor Center* v. *Hicks*, 509 U.S. 502 (1993); *Dartey* v. *Zack*, *supra*, pp. 6–9.

In certain cases, the trier of fact may conclude that the employer was motivated by both prohibited and legitimate reasons ("dual motive" cases). In such dual motive cases, the employer may prevail only by showing by a preponderance of the evidence that it would have reached the same decision even in the absence of the protected conduct.

The 1992 amendments added new statutory burdens of proof to the ERA. The changes have been described on the one hand as a lowering of the burden on complainants in order to facilitate relief for employees who have been retaliated against for exercising their statutory rights, and, on the other hand, as a limitation on the investigative authority of the Secretary of Labor when the burden is not met.

Under the ERA as amended, a complainant must make a *"prima facie"* showing that protected conduct or activity was "a contributing factor" in the unfavorable personnel action alleged in the complaint, *i.e.*, that the whistleblowing activity, alone or in combination with other factors, affected in some way the outcome of the employer's personnel decision (section 211(b)(3)(A)). This is a lesser standard than the "significant", "motivating", "substantial", or "predominant" factor standard sometimes articulated in case law under statutes prohibiting discrimination. If the complainant does not make the *prima facie* showing, the complaint must be dismissed and the investigation discontinued.

Even in cases where the complainant meets the initial burden of a *prima facie* showing, the investigation must be discontinued if the employer "demonstrates, by clear and convincing evidence, that it would have taken the same unfavorable personnel action" in the absence of the protected conduct (section 211(b)(3)(B)). The complainant is free, as under prior law, to pursue the case before the administrative law judge (ALJ) if the Secretary dismisses the complaint.

The "clear and convincing evidence" standard is a higher degree of proof burden on employers than the former "preponderance of the evidence" standard. In the words of Representative George Miller, Chairman of the House Committee on Interior and Insular Affairs, "[t]he conferees intend to replace the burden of proof enunciated in *Mt. Healthy* v. *Doyle*, 429 U.S. 274 (1977), with this lower burden in order to facilitate relief for employees who have been retaliated against for exercising their rights under section 210 * * *." 138 Cong. Rec. H 11409 (October 5, 1992).

Thus, under the amendments to ERA, the Secretary must dismiss the complaint and not investigate (or cease investigating) if either: (1) The complainant fails to meet the *prima facie* showing that protected activity was a contributing factor in the unfavorable personnel action; or (2) the employer rebuts that showing by clear and convincing evidence that it would have taken the same unfavorable personnel action absent the protected conduct.

These new burden of proof limitations also apply to the determination as to whether an employer has violated the Act and relief should be ordered. Thus, a determination that a violation has occurred may only be made if the complainant has demonstrated that protected behavior or conduct was a contributing factor in the unfavorable personnel action alleged in the complaint (section 211(b)(3)(C)). Where the complainant satisfies this burden, relief still may not be ordered if the employer satisfies the statutory requirement to demonstrate by "clear and convincing evidence" that it would have taken the same personnel action in the absence of the protected activity (section 211(b)(3)(D)).

Other Changes

The ERA whistleblower provisions must be prominently posted in any place of employment to which the Act applies. The amendments also include an express provision that the ERA whistleblower provisions may not be construed to expand, diminish, or otherwise affect any right otherwise available to an employee under Federal or State law to redress the employee's discharge or other discriminatory action taken by the employer against the employee—codifying and broadening the Supreme Court decision in *English* v. *General Electric Co.*, 496 U.S. 72 (1990). Finally, the amendments direct the NRC and DOE not to delay addressing any "substantial safety hazard" during the pendency of a whistleblower proceeding, and provide that a determination by the Secretary of Labor that a whistleblower violation has not occurred "shall not be considered" by the NRC and DOE in determining whether a substantial safety hazard exists.

Summary and Discussion of Major Comments

Comments were received from the Tennessee Valley Authority (TVA); the Nuclear Energy Institute (the organization of the nuclear power industry responsible for coordinating efforts of utilities licensed by NRC on regulatory issues); the law firm of Winston & Strawn, on behalf of five utility companies and TVA; and Westinghouse Electric Corporation. In

addition, in the period since the comment period closed, a request for rulemaking was received from Steptoe and Johnson on behalf of Alyeska Pipeline Service Company, which has also been considered.

The major comments received by the Department and the response of the Department to the comments are discussed as they pertain to each section of Part 24 which is amended or to which new provisions are added.

One comment was the general suggestion that these rules should be produced through negotiated rulemaking, involving, as that process does, the regulatory agencies (Nuclear Regulatory Commission, Department of Energy, Environmental Protection Agency), industry, public interest groups, and respondents and complainants and their representatives. The Department does not believe that negotiated rulemaking is appropriate for these regulations. The regulations involve largely procedural issues not so difficult to resolve as to justify invoking the procedures of the Negotiated Rulemaking Act of 1990, 5 U.S.C. 581 *et seq.*

In the period since the proposed rule was published, two significant organizational changes have taken place in the Department of Labor which materially affect these regulations. By Secretary's Order No. 2–96 (61 FR 19978, May 3, 1996), the Secretary appointed an Administrative Review Board ("ARB" or "Board") to decide all cases previously decided by the Secretary, including the various employee protection "whistleblower" statutes which are the subject of these regulations. Therefore the ARB has been substituted for references to the Secretary.

In addition, the Secretary has delegated the authority to investigate complaints under these statutes to the Assistant Secretary of the Occupational Safety and Health Administration ("OSHA"), effective for all complaints received on or after February 3, 1997. Secretary's Order 6–96 (62 FR 111, Jan. 2, 1997, as corrected by 62 FR 8085, Feb. 21, 1997). Since OSHA already had authority to investigate complaints under the employee protection provisions of the Surface Transportation Assistance Act and the discrimination provisions of the Occupational Safety and Health Act, this action placed all authority to investigate alleged discrimination because of an employee's complaints regarding the environment and safety and health (other than in the mining industry) in one agency. Therefore in these regulations OSHA has been substituted for all references to the Wage and Hour Division and the Administrator thereof.

The Department has also published a proposed rule to provide new alternative dispute resolution ("ADR") procedures in a number of Departmental programs, including the various whistleblower statutes. 62 FR 6690 (Feb. 12, 1997). This would supplement existing procedures in the regulations of the Office of Administrative Law Judges, which allow the parties to a proceeding before an ALJ to request appointment of a settlement judge to seek voluntary resolution of the issues. 29 CFR 18.9(e). The proposed rule envisions a pilot program under which the Department would investigate a complaint and then, where the case is found to be suitable for ADR, offer the employer and employees the option of mediation and/or arbitration. The ARB would not be bound by any resolution reached, but would incorporate the settlement in the final ARB order where it meets ARB standards. 62 FR 6693.

Section 24.1 Purpose and Scope

The proposal updated the list of the Federal statutes providing employee protections for whistleblowing activities for which the Department of Labor is responsible for enforcement under this part to add the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610. This was subsequently accomplished in another rulemaking. 62 FR 19985 (May 3, 1996). No comments were received on this provision and no changes have been made.

Section 24.2 Obligations and Prohibited Acts

The proposal revised this provision to reflect the statutory amendments adding to the list of protected activities explicitly covered under the ERA, and to state that under the Secretary's interpretation, the whistleblowing activities added to the ERA are protected under all of the whistleblower statutes. The requirement for posting of notices of the employee protection provisions of the ERA was also added, together with a provision that failure to post the required notice shall make the requirement that a complaint be filed with the Administrator within 180 days inoperative unless and until the notice is later posted or the respondent is able to establish that the employee had actual notice of the provisions. This explicit recognition that the statute of limitations may be equitably tolled is based on case law under analogous statutes. See, for example, *Kephart* v. *Institute of Gas Technology,* 581 F.2d 1287, 1289 (7th Cir. 1978), *cert. denied,* 450 U.S. 959 (1981), and *Bonham* v. *Dresser Industries, Inc.*, 569 F.2d 187 (3rd Cir. 1977), *cert. denied*, 439 U.S. 821 (1978), arising under the Age Discrimination in Employment Act, and *Kamens* v. *Summit Stainless, Inc.*, 586 F. Supp. 324 (E.D. Pa. 1984), arising under the Fair Labor Standards Act.

Three commenters state that references to the Atomic Energy Act of 1954 are incorrect because that statute has no whistleblower provisions involving the Secretary of Labor, and they state that the NRC enforces all aspects of that statute.

The Department recognizes that the whistleblower provisions were enacted to be a part of the Energy Reorganization Act of 1974, as amended in 1992. The confusion arises because the whistleblower provisions protect whistleblowers when they disclose alleged substantive violations of the Atomic Energy Act; however, when they are discriminated against for doing so, this is a violation of the ERA, not the Atomic Energy Act. The statutory references is clarified accordingly.

Two commenters assert that the regulation's description of employer conduct which is prohibited—"intimidates, threatens, restrains, coerces, blacklists, discharges or in any other manner discriminates against an employee"—should be deleted in favor of the language of the statute, which prohibits the employer's "discharge [of] any employee or otherwise discriminat[ing] against any employee with respect to his compensation, terms, conditions, or privileges of employment * * *." .

The language in paragraph (b) of the proposed regulation is exactly the same as the language in § 24.2(b) of the current regulation. The language is simply a fuller statement of the scope of prohibited conduct, which encompasses discrimination of any kind with respect to the terms, conditions or privileges of employment. Accordingly, no change is necessary.

One commenter points out that the regulations proscribe discrimination by an employer against an employee who "has" engaged in protected conduct. The commenter believes that literally read, the regulation does not require a showing of a causal connection between whistleblowing and discrimination.

In order to avoid any possibility of confusion, the language of the regulation in paragraphs (b) and (c) has been changed to reflect the statutory language.

The regulations at § 24.2(d) provide that the required poster must be prepared or approved by DOL. Two of the commenters believe that the poster

currently required by the Nuclear Regulatory Commission is adequate and no additional poster should be required. One commenter sees this as unnecessary as long as the employer's poster contains the required information.

The statute states: "The provisions of this section shall be prominently posted in any place of employment to which this section applies." The Department believes that it is necessary to use a poster prepared or approved by the Department to ensure that the poster contains the essential information which needs to be communicated to employees. For the convenience of the public, the Department has prepared a poster which is published as an appendix to this rule and which is available at any local OSHA office and at the DOL Website. The Department will also approve any poster which contains the same information and does not contain any misleading information. For example, the Department is working with NRC to approve a poster which would satisfy its needs as well as the requirements of the ERA, thus eliminating the need that both notices be posted.

Contrary to the statement of the commenter, there is no requirement in these regulations that respondents keep records of the posting of the notice. This is a continuing requirement that should not require any kind of recordkeeping.

Three commenters discuss the proposed § 24.2(d)(2), under which the employer's failure to post the required notice of employee rights could lead to a tolling of the statute of limitations. They express the concern that the tolling rule will be applied too automatically, rather than on a case-by-case basis pursuant to general equitable principles as applied to all the facts and circumstances of a particular case.

The regulation indicates that the employer has an opportunity to show that the complaining employee was in fact aware of his or her rights, and thus equitable tolling would not apply. A clarifying change is made to the regulation to provide that the 180 day period "ordinarily" runs from the date the notice is posted (assuming of course that the employee was still employed at the site) or the employee receives actual notice.

Section 24.3 Complaints

The proposed regulation revised § 24.3 to reflect the 180-day filing period for complaints under the ERA.

One commenter asserts that the regulations should provide that the respondent may raise the issue of timeliness of complaints any time prior to the conclusion of the hearing. The commenter suggests that without such provision respondents will be deprived of the opportunity to raise the timeliness issue at a time which is fair to them.

As the commenter noted, pursuant to the rules of the Office of Administrative Law Judges at 29 C.F.R. 18.1(a), the Federal Rules of Civil Procedure ("FRCP") apply in any instance where there is no explicit rule in Part 18 or the governing program's statute and regulations. Although, unlike under the Federal Rules, there is no provision for filing an answer in these regulations, there are commonly various occasions where issues such as timeliness can and appropriately should be raised. The Department believes it is reasonable to require that timeliness ordinarily be raised early in the proceedings, as both the ALJ and the Secretary ruled in *Hobby* v. *Georgia Power Co.*, No. 90–ERA–30, ALJ's Recommended Decision and Order (Nov. 8, 1991), Secretary (Aug. 4, 1995) (reversing and remanding on other grounds). A specific provision seems unnecessary.

Two commenters take issue with the present practice, which is continued in the proposed regulations, of not requiring the complainant to serve the complaint on the respondent at the same time it is filed with the Department. Currently the respondent must wait to receive the complaint from the Department. The commenters argue that requiring the complainant to serve the complaint on the respondent would increase the respondent's response time. Under their view of what the regulations should require, if the complainant did not serve the respondent, then the respondent should have additional time to respond to the Department.

In the Department's experience the procedure in the present regulations has worked satisfactorily. The Department may need to examine the complaint or, as discussed below, to supplement the complaint with interviews of the complainant, before sending it to the respondent. Furthermore, a complainant may wish to withdraw a complaint if, for example, he or she learns it is untimely. A comparison in this regard with proceedings before administrative law judges is not valid, because the complaint initiates an investigation, not a proceeding before an ALJ.

One commenter states that the regulations appear to protect persons who raise concerns in bad faith, but does not cite any specific language in the regulations to support that proposition.

Nothing in the current or proposed regulations provides for relief where complaints are found to be made in bad faith. Such a provision seems unnecessary. However, former § 24.9, which was inadvertently omitted from the proposal, has been included again. This provision declares that employees who deliberately and without direction of their employer violate Federal law are not protected.

Section 24.4 Investigations

Section 24.4 was proposed to be revised to provide for filing of hearing requests by facsimile (fax), telegram, hand-delivery, or next-day delivery service (e.g., overnight couriers), to conform the regulations to current business practices. In addition, the proposed regulation provided that the request for a hearing must be received within five business days, rather than five calendar days, from receipt of the Administrator's determination. The proposed regulation also made it clear that the complainant may appeal from a finding that a violation has occurred where the determination or order is partially adverse (e.g., where a complaint was only partially substantiated or the order did not grant all of the requested relief).

One commenter suggests that the regulations should make clear that in a case where only a prevailing complainant appeals to an ALJ because of dissatisfaction with the remedy ordered by the Administrator (now the Assistant Secretary for OSHA), the non-appealing respondent would have an opportunity to contest liability before the ALJ. This would prevent respondents from having to file appeals in cases in which they have decided not to challenge the Administrator's ruling, not knowing in which cases the complainant will contest the remedy.

Allowing cross-appeals would eliminate the need for complainants and respondents to guess in such cases or to file appeals in all such cases. This section is amended accordingly to allow for cross appeals. In addition, this section is simplified to provide the mechanism for appeals of both the complainant and the respondent in the same paragraph.

As one commenter suggested, this section and § 24.8 are further amended in accordance with the Supreme Court decision in *Darby* v. *Cisneros*, 509 U.S. 137 (1993), to make it clear that exhaustion of administrative remedies is required.

In response to a question raised by one commenter, § 24.4(d)(3) is revised to make it clear that service of copies of the appeal must be done by the party appealing.

Section 24.5 Investigations under the Energy Reorganization Act

A new § 24.5, concerning investigations under the Energy Reorganization Act, was proposed to detail operation of the new provisions under the ERA for dismissal of complaints where the employee has not alleged a *prima facie* case, or the employer has submitted clear and convincing evidence that it would have taken the same personnel action in the absence of the protected activity.

Three commenters are critical of the Department's formulation in § 24.5(b) of what constitutes a *prima facie* case. They believe that the regulations should require the complainants to provide supporting evidence with their complaints, and they believe that the regulations give too much weight to the amount of time between the protected activity and the adverse action. In support of this latter criticism they cite cases for the proposition that this temporal proximity may be overcome by the employer's evidence of non-discriminatory reasons for the adverse action.

It would be overly restrictive to require a complainant to provide evidence of discrimination (as distinguished from a showing) when the only purpose of the complaint is to trigger an investigation to determine if there is evidence of discrimination. Complainants generally do not have the knowledge or resources to actually submit "evidence" of the violative conduct. With regard to the cited cases finding that temporal proximity between the protected activity and the adverse action was not enough to prove discrimination, those cases involved final decisions on the merits after evidence has been presented by both parties. As set forth in *Couty* v. *Dole,* 886 F.2d 147, 148 (8th Cir. 1989), case law establishes that "temporal proximity is sufficient as a matter of law to establish the final required element in a *prima facie* case of retaliatory discharge."

Furthermore, the regulation at issue here involves the complaint stage of the proceeding and merely triggers an investigation and not a finding by OSHA on the merits of the complaint. The regulation does not state that temporal proximity is always enough to establish a *prima facie* case, but rather states only that it is normally so. In arriving at a final decision, OSHA considers all pertinent evidence in addition to temporal proximity.

One commenter cites cases dealing with who in the respondent organization must have the knowledge of the protected activity as part of a *prima facie* case and suggests that the regulations address this issue. This is a matter which must be determined on the basis of all the facts and circumstances of a particular case and is not suitable for inclusion in the regulations.

The proposed regulations at § 24.5(b)(2) provide that the complainant must allege the existence of facts and evidence constituting a *prima facie* case of a violation in the complaint, supplemented as appropriate by interviews of the complainant. One commenter seeks elimination of these supplemental interviews. Two commenters suggest that since Wage and Hour (now the Occupational Safety and Health Administration) provides the complaint to the employer for his response, it is only fair to provide the employer with the information obtained in the interviews, as it might contain one or more of the elements of a violation to which the employer is required to respond.

In the Department's view, the supplementation of the complaint by interviews of the complainant is necessary and appropriate because employees commonly lack the sophistication to aver the elements of a *prima facie* case and evidence in support thereof. It is recognized, however, that the supplemental interviews become a part of the complaint, and therefore in all fairness this information, in addition to the original complaint (which is routinely provided to the employer), ought to be provided to the employer. The regulation has been amended to so provide.

As suggested by one commenter, § 24.5(b)(2) has been revised to separate out two elements of the required *prima facie* showing—that adverse personnel action has occurred, and that it likely resulted from the protected activity.

One commenter questions the language in § 24.5(b)(3) wherein a *prima facie* case is described as an inference that the respondent knew of the complainant's protected activity and the protected activity "was likely a reason" for an adverse personnel action. The commenter believes that this language creates a standard different from the statutory requirement that the protected activity be "a contributing factor" in the unfavorable personnel action.

There is no intention to deviate from the statutory standard for establishment of a *prima facie* case, as set forth in § 24.5(b)(2). The language "was likely a reason" was used to explain the meaning of "was a contributing factor." However, the provision is clarified.

One commenter argues that this section should require pleading and proof of various facts relating to a claim of retaliatory nonselection, failure to hire, nonretention, nonpromotion, improper disciplinary action, improper layoff or contract termination.

The facts that must be pled and proven to establish a particular form of discrimination depend on the facts and circumstances of a particular case. The Department does not believe that it is appropriate to attempt to catalogue in a regulation all such facts for all possible forms of discrimination, as suggested by the commenter.

One commenter points out a typographical error: At § 24.5(b)(2) the word "appropriated" was intended to read "appropriate."

Another commenter points out a typographical error in § 24.5(c)(2), which provides that the respondent has five business days to rebut the allegations in the complaint "from receipt of notification of the *complainant.*" This is a typographical error and the provision is amended by changing "complainant" to "complaint".

One commenter believes that the legislative history of the 1992 Amendments shows that the "clear and convincing" standard applicable to the respondent's burden of proof to rebut the complainant's *prima facie* case applies only at the pre-investigative stage of the case and does not apply when the case is before the ALJ and the Secretary (ARB).

The 1992 Amendments show clearly that the "clear and convincing" standard is applicable to respondents at all stages of the proceedings. The new § 24.5(c)(1) applies the standard to the pre-investigative stage of the proceedings. The new § 24.7(b) applies the standard to proceedings before the ALJ and the Administrative Review Board. The interplay of these provisions was at issue in the recent case of *Dysert* v. *United States Secretary of Labor,* 105 F.3d 607 (11th Cir. 1997), in which the court affirmed the Secretary's determination that a complainant must show more than a *prima facie* case of discrimination in order to shift the burden of persuasion to the employer. Rather, the complainant must "demonstrate" that the protected behavior was a contributing factor by a preponderance of the evidence before the ALJ. In dual motive cases, the burden then shifts to the respondent to demonstrate by clear and convincing evidence that it would have taken the same action in the absence of the protected activity.

Three commenters do not believe that five days is enough time for respondents to respond to the complainant's *prima facie* case with clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of protected activity.

Given the overall statutory time frame of 90 days, and the time necessary for other stages of the proceedings, no more than five days is available for this stage of the process. At any time during the investigation the respondent is free to provide OSHA with evidence in its defense which will be considered by OSHA in making its final determination.

Section 24.5(d) is revised to simplify the provisions for appeal of a notice of dismissal of a complaint by cross-referencing the service provisions in § 24.4.

Section 24.6 Hearings

Proposed § 24.6 (formerly § 24.5) made it clear that the Wage-Hour Administrator (now the Assistant Secretary of OSHA) may participate in proceedings as a party or as *amicus curiae*. In addition, at the request of the Nuclear Regulatory Commission, an express provision was added to permit Federal agencies to participate as *amicus curiae*, and to receive copies of pleadings on request.

Because of comments suggesting that the various time frames are too short, and in recognition of current practices, § 24.6(a) is amended to allow the parties to agree to a postponement of the hearing.

Two commenters criticize the new provision in § 24.6(f)(1) allowing the Administrator (now the Assistant Secretary of OSHA) to participate as a party or as *amicus curiae* at any time in the proceedings. They argue that the Administrator cannot objectively investigate a complaint and then participate as a party, and that the Administrator's participation as a party would present problems about confidential information obtained during the investigative stage of the proceeding and with the attendance of witnesses at the hearing. In addition, one commenter believes this provision would run counter to 29 CFR 18.32 and be in conflict with Secretary's Order 1–93 (now Secretary's Order 6–96), which specifies that the Solicitor of Labor makes the determination to bring legal proceedings.

This proposal makes it expressly possible for the Assistant Secretary to participate as an *amicus* or a party as a matter of right in any case where such participation is necessary or beneficial to the program. Under the existing regulations, the Administrator (now the Assistant Secretary) in certain cases has acted as *amicus* before ALJs and the Secretary (now the ARB). The Assistant Secretary's participation as an *amicus* or party would follow an investigation conducted pursuant to the normal procedures, as happens in most other programs where the Department prosecutes after conducting an investigation. Since the Assistant Secretary is not the adjudicator, there would be no conflict between the Assistant Secretary first investigating a complaint and later acting in a prosecutorial capacity. An analogous procedure is followed in other programs. See, *e.g.*, the Davis-Bacon regulations at 29 CFR 5.11. Furthermore, as in other programs, OSHA would not be required to disclose confidential information. Witnesses would be available pursuant to normal procedures. Since OSHA would not be both a party in a case and an advisor to the Secretary, there is no conflict with 29 CFR 18.32. Finally, the Solicitor of Labor, or appropriate designee, would continue to make the decision as to participation in the legal proceedings, and would represent the Assistant Secretary, consistent with Secretary's Order 6–96.

One commenter asserts that the requirements in § 24.6(f)(2) and in §§ 24.4(d)(4) and 24.5(d)(2) that parties serve the Administrator (now the Assistant Secretary of OSHA) and the Associate Solicitor of the Fair Labor Standards Division with pleadings and with copies of the request for a hearing violate the Paperwork Reduction Act, and that requiring these "numerous filings" is burdensome. Another commenter reads the proposed rule as requiring employers to keep records of compliance with the posting requirements.

This requirement is not subject to the Paperwork Reduction Act because the Act exempts collections of information during the conduct of an administrative action, investigation or audit against specific individuals or entities. 5 CFR 1320.4(a)(2). Since OSHA does not participate in most cases, service of copies of pleadings and briefs is important to keep the Assistant Secretary and the Solicitor informed of cases in which the Department could have an interest.

One commenter suggests that the regulations contain an express reference making the rules for the conduct of ALJ proceedings in 29 CFR Part 18 and the rules of evidence in that part applicable to the proceedings in these cases. This would replace the provision in the current § 24.5(e)(1) relating to "procedures, evidence and record." A petition for rulemaking has also been received making the same request.

The regulations at 29 C.F.R. 24.5(e)(1) (renumbered as § 24.6(e)(1)) provide that formal rules of evidence shall not apply to these proceedings. The Department believes it is inappropriate to apply the rules of evidence at 29 C.F.R. Part 18 because whistleblowers often appear *pro se*. Furthermore, hearsay evidence is often appropriate in whistleblower cases, as there often are no relevant documents or witnesses to prove discriminatory intent. ALJs have the responsibility to determine the appropriate weight to be given such evidence. For these reasons the interests of determining all of the relevant facts is best served by not requiring strict evidentiary rules and no change is made in this provision.

One commenter states that the regulations need to address the issue of voluntary dismissals, allowing unilateral dismissals only prior to a request for a hearing. After a request for a hearing a dismissal could only be granted if the respondent agreed to it or was compensated for costs, fees and expenses incurred in defending against the complaint up to that point.

Although the regulations have no provision addressing voluntary dismissals, these proceedings are governed by the rules of the Office of Administrative Law Judges at 29 C.F.R. Part 18 unless these regulations provide to the contrary. Those rules in turn provide at § 18.1(a) that the Federal Rules of Civil Procedure ("FRCP") apply in any instance where there is no explicit rule in Part 18 or the governing program's statute and regulations. Rule 41(a) of the FRCP allows voluntary, unilateral dismissal only up to the time the answer (or motion for summary judgment if earlier) is filed; thereafter the dismissal must be agreed to by the respondent or ordered by the court. The Department has applied Rule 41(a) to whistleblower proceedings. See, *e.g.*, *Carter* v. *Los Alamos Nat'l Lab.*, No. 93–CAA–10 (March 21, 1994); *Ryan v. Pacific Gas & Electric Co.*, No. 87–ERA–32 (Aug. 9, 1989); *Nolder* v. *Raymond Kaiser Eng'rs, Inc.*, No. 84–ERA–5 (June 28, 1985). The Department sees no reason why any other rule should apply to whistleblower proceedings. Therefore no amendment is necessary. There is no basis in the statute for requiring employees to pay fees and costs.

Section 24.7 Recommended Decision and Order

Proposed § 24.7 (formerly § 24.6), concerning recommended decisions and orders, added the statutory requirement that interim relief be ordered in ERA

cases once an administrative law judge issues a recommended decision that the complaint is meritorious. Proposed § 24.7 also provided with respect to all whistleblower cases that the recommended decision of the administrative law judge becomes the final order of the Secretary if no petition for review is filed.

Two commenters challenge the constitutionality of the provision in § 24.7 for an award of compensatory damages upon a finding of a violation, urging that only a jury can make such an award.

The regulation merely tracks the statutory provision that compensatory damages are available as a remedy. DOL, as the agency given the administrative authority to implement that statutory provision, has no authority to question the constitutionality of the statute. Furthermore, Congress has the authority to create a statutory cause of action analogous to a common-law legal claim and assign resolution to an administrative or other tribunal where jury proceedings are not available, provided the adjudication is of a public right—broadly defined to include "'a seemingly private right that is so closely integrated into a public regulatory scheme as to be a matter appropriate for agency resolution with limited involvement by the Article III judiciary.'" *Granfinanciera, S.A.* v. *Nordberg*, 492 U.S. 33, 51–55, 54 (1989), quoting from *Thomas* v. *Union Carbide Agricultural Products Co.*, 473 U.S. 568, 593–94 (1985) (Brennan, J., concurring).

Three commenters believe that the 20 days allotted for issuance of the ALJ's decision and order is too short, taking into account such factors as the time necessary to prepare hearing transcripts and post-hearing briefs.

The Department considers the 20-day time period necessary, like the other time periods in the regulations, because of the overall time period in the statute of 90 days from complaint to Secretary's decision. In a particular case, in accordance with current practice, the parties may agree to extend the period for a hearing or decision and order, and the regulations have been amended to so provide.

Two commenters argue that the provision in § 24.7(c)(1) requiring interim relief for the employee upon a finding by an ALJ of a violation should include a hearing before the ALJ on the issue of interim relief. Reinstatement should only be available if a violation is proven.

The purpose of interim relief, to provide a meritorious complainant with a speedy remedy, would be frustrated if a second hearing were required. Due process requirements will have been fully satisfied by the ALJ hearing already provided by the statute and regulations. Moreover, the statute explicitly provides that a preliminary order of reinstatement (and other relief) shall be issued upon the conclusion of the ALJ hearing and issuance of a recommended decision that the complaint has merit. 42 U.S.C. 5851(b)(2)(A). Clearly nothing further is required. The regulation has been modified to make it clear that preliminary relief is required only if a violation of the Act has been established.

Section 24.8 Review by the Secretary (ARB)

A new proposed § 24.8 detailed the procedure for seeking review by the Secretary of a decision of an Administrative Law Judge.

Two commenters question whether review by the Secretary (now the ARB) of an ALJ's decision is a matter of right or is discretionary, and, if the latter, what criteria the Secretary would use in exercising that discretion. Clarification was also requested of the content of the petition for review.

The intent of the regulations is that appeals be a matter of right, and not discretionary with the ARB. It is not required that the petition for review have any particular form.

One commenter states that in order to avoid frivolous complaints and abusive litigation tactics, the regulations should provide for the Secretary's discretionary awarding of compensation against any losing party guilty of such actions.

The whistleblower statutes do not provide for that form of relief. The relief described in § 24.8(d) as potentially available for successful complainants is the only relief provided by the statute.

Miscellaneous Provisions

The proposed regulations removed § 24.7, concerning judicial review, and former § 24.8, concerning enforcement of decisions of the Secretary. These provisions vary from statute to statute among the whistleblower programs. Furthermore, the types of judicial review or enforcement actions which are available does not need to be the subject of rulemaking since they are prescribed by statute and concern judicial remedies.

One commenter has expressed concern that removal of the former § 24.7(c), in which the Secretary is directed to prepare the record of a case in the event of judicial review, could interfere with the judicial review process.

The Department is of the view that it is unnecessary to have a regulation describing the manner in which the record is filed with the court. When judicial review is sought in the court of appeals, the Department follows Rule 17(b) of the Federal Rules of Appellate Procedure, which provides a number of alternative procedures for filing the record.

As one commenter suggested, and as discussed above, the provisions of former § 24.9, which were inadvertently omitted from the proposed rule, have been reinstated in the regulation.

Dates of Applicability

Two commenters read the regulations as applicable to complaints filed under the ERA prior to the October 1992 ERA Amendments.

Section 2902(i) of the 1992 Amendments, Public Law 102–486, provides:

> "The amendments made by this section shall apply to claims filed under section 211(b)(1) of the Energy Reorganization Act of 1974 (42 U.S.C. 5851(b)(1)) on or after the date of the enactment of this Act."

The date of the enactment of that Act is October 24, 1992, so the regulatory provisions implementing the 1992 ERA Amendments apply only to ERA complaints filed on or after that date.

Furthermore, as discussed above, the delegation of authority to the Assistant Secretary for Occupational Safety and Health is effective only with respect to complaints received on or after February 3, 1997.

In all other respects, the provisions of this part are applicable to actions taken on or after the effective date.

Executive Order 12866; Section 202 of the Unfunded Mandates Reform Act of 1995; Small Business Regulatory Enforcement Fairness Act; Executive Order 12875

The Department has concluded that this rule is not a "significant regulatory action" within the meaning of Executive Order 12866. Because it is procedural in nature, it will not: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities; (2) create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raise novel legal or policy issues arising out of legal

mandates, the President's priorities, or the principles set forth in Executive Order 12866. Therefore, no regulatory impact analysis has been prepared. Similarly, because the rule is not economically significant, it is not a major rule within the meaning of Section 804(2) of the Small Business Regulatory Enforcement Fairness Act, and does not require a Section 202 statement under the Unfunded Mandates Reform Act of 1995. Finally, these regulations will not result in any increased costs to State, local or tribal governments and therefore are not subject to Executive Order 12875.

Regulatory Flexibility Analysis

The Department has determined that the regulation will not have a significant economic impact on a substantial number of small entities. The regulation implements procedural revisions necessitated by statutory amendments and provisions which improve the procedures for speedier resolution of whistleblower complaints. The Department of Labor certified to this effect to the Chief Counsel for Advocacy of the Small Business Administration. Therefore, no regulatory flexibility analysis is required.

Document Preparation: This document was prepared under the direction and control of Gregory R. Watchman, Acting Assistant Secretary, Occupational Safety and Health Administration, U.S. Department of Labor.

List of Subjects in 29 CFR Part 24

Administrative practice and procedure, Employment, Environmental protection, Investigations, Reporting and recordkeeping requirements, Whistleblowing.

Signed at Washington, DC, this 30th day of January 1998.

Charles N. Jeffress,

Acting Assistant Secretary for Occupational Safety and Health.

Accordingly, for the reasons set out in the preamble, and under the delegation of authority in Secretary's Order 6–96 (62 FR 111, Jan. 2, 1997, as corrected by 62 FR 8085, Feb. 21, 1997), 29 CFR part 24 is revised to read as follows:

PART 24—PROCEDURES FOR THE HANDLING OF DISCRIMINATION COMPLAINTS UNDER FEDERAL EMPLOYEE PROTECTION STATUTES

Sec.

Authority: 15 U.S.C. 2622; 33 U.S.C. 1367; 42 U.S.C. 300j–9(i), 5851, 6971, 7622, 9610.

§ 24.1 Purpose and scope.

(a) This part implements the several employee protection provisions for which the Secretary of Labor has been given responsibility pursuant to the following Federal statutes: Safe Drinking Water Act, 42 U.S.C. 300j–9(i); Water Pollution Control Act, 33 U.S.C. 1367; Toxic Substances Control Act, 15 U.S.C. 2622; Solid Waste Disposal Act, 42 U.S.C. 6971; Clean Air Act, 42 U.S.C. 7622; Energy Reorganization Act of 1974, 42 U.S.C. 5851; and Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9610.

(b) Procedures are established by this part pursuant to the Federal statutory provisions listed in paragraph (a) of this section, for the expeditious handling of complaints by employees, or persons acting on their behalf, of discriminatory action by employers.

(c) Throughout this part, "Secretary" or "Secretary of Labor" shall mean the Secretary of Labor, U.S. Department of Labor, or his or her designee. "Assistant Secretary" shall mean the Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, or his or her designee.

§ 24.2 Obligations and prohibited acts.

(a) No employer subject to the provisions of any of the Federal statutes listed in § 24.1(a), or to the Atomic Energy Act of 1954 (AEA), 42 U.S.C. 2011 *et seq.*, may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee, or any person acting pursuant to the employee's request, engaged in any of the activities specified in this section.

(b) Any employer is deemed to have violated the particular federal law and the regulations in this part if such employer intimidates, threatens, restrains, coerces, blacklists, discharges, or in any other manner discriminates against any employee because the employee has:

(1) Commenced or caused to be commenced, or is about to commence or cause to be commenced, a proceeding under one of the Federal statutes listed in § 24.1(a) or a proceeding for the administration or enforcement of any requirement imposed under such Federal statute;

(2) Testified or is about to testify in any such proceeding; or

(3) Assisted or participated, or is about to assist or participate, in any manner in such a proceeding or in any other action to carry out the purposes of such Federal statute.

(c) Under the Energy Reorganization Act, and by interpretation of the Secretary under any of the other statutes listed in § 24.1(a), any employer is deemed to have violated the particular federal law and these regulations if such employer intimidates, threatens, restrains, coerces, blacklists, discharges, or in any other manner discriminates against any employee because the employee has:

(1) Notified the employer of an alleged violation of such Federal statute or the AEA of 1954;

(2) Refused to engage in any practice made unlawful by such Federal statute or the AEA of 1954, if the employee has identified the alleged illegality to the employer; or

(3) Testified before Congress or at any Federal or State proceeding regarding any provision (or proposed provision) of such Federal statute or the AEA of 1954.

(d)(1) Every employer subject to the Energy Reorganization Act of 1974, as amended, shall prominently post and keep posted in any place of employment to which the employee protection provisions of the Act apply a fully legible copy of the notice prepared by the Occupational Safety and Health Administration, printed as appendix A to this part, or a notice approved by the Assistant Secretary for Occupational Safety and Health that contains substantially the same provisions and explains the employee protection provisions of the Act and the regulations in this part. Copies of the notice prepared by DOL may be obtained from the Assistant Secretary for Occupational Safety and Health, Washington, D.C. 20210, from local offices of the Occupational Safety and Health Administration, or from the Department of Labor's Website at http://www.osha.gov.

(2) Where the notice required by paragraph (d)(1) of this section has not been posted, the requirement in § 24.3(b)(2) that a complaint be filed with the Assistant Secretary within 180 days of an alleged violation shall be inoperative unless the respondent establishes that the complainant had notice of the material provisions of the notice. If it is established that the notice was posted at the employee's place of employment after the alleged discriminatory action occurred or that

the complainant later obtained actual notice, the 180 days shall ordinarily run from that date.

§ 24.3 Complaint.

(a) *Who may file.* An employee who believes that he or she has been discriminated against by an employer in violation of any of the statutes listed in § 24.1(a) may file, or have another person file on his or her behalf, a complaint alleging such discrimination.

(b) *Time of filing.* (1) Except as provided in paragraph (b)(2) of this section, any complaint shall be filed within 30 days after the occurrence of the alleged violation. For the purpose of determining timeliness of filing, a complaint filed by mail shall be deemed filed as of the date of mailing.

(2) Under the Energy Reorganization Act of 1974, any complaint shall be filed within 180 days after the occurrence of the alleged violation.

(c) *Form of complaint.* No particular form of complaint is required, except that a complaint must be in writing and should include a full statement of the acts and omissions, with pertinent dates, which are believed to constitute the violation.

(d) *Place of filing.* A complaint may be filed in person or by mail at the nearest local office of the Occupational Safety and Health Administration, listed in most telephone directories under U.S. Government, Department of Labor. A complaint may also be filed with the Office of the Assistant Secretary, Occupational Safety and Health Administration, U.S. Department of Labor, Washington, D.C. 20210.

(Approved by the Office of Management and Budget under control number 1215–0183.)

§ 24.4 Investigations.

(a) Upon receipt of a complaint under this part, the Assistant Secretary shall notify the person named in the complaint, and the appropriate office of the Federal agency charged with the administration of the affected program of its filing.

(b) The Assistant Secretary shall, on a priority basis, investigate and gather data concerning such case, and as part of the investigation may enter and inspect such places and records (and make copies thereof), may question persons being proceeded against and other employees of the charged employer, and may require the production of any documentary or other evidence deemed necessary to determine whether a violation of the law involved has been committed.

(c) Investigations under this part shall be conducted in a manner which protects the confidentiality of any person other than the complainant who provides information on a confidential basis, in accordance with part 70 of this title.

(d)(1) Within 30 days of receipt of a complaint, the Assistant Secretary shall complete the investigation, determine whether the alleged violation has occurred, and give notice of the determination. The notice of determination shall contain a statement of reasons for the findings and conclusions therein and, if the Assistant Secretary determines that the alleged violation has occurred, shall include an appropriate order to abate the violation. Notice of the determination shall be given by certified mail to the complainant, the respondent, and their representatives (if any). At the same time, the Assistant Secretary shall file with the Chief Administrative Law Judge, U.S. Department of Labor, the original complaint and a copy of the notice of determination.

(2) The notice of determination shall include or be accompanied by notice to the complainant and the respondent that any party who desires review of the determination or any part thereof, including judicial review, shall file a request for a hearing with the Chief Administrative Law Judge within five business days of receipt of the determination. The complainant or respondent in turn may request a hearing within five business days of the date of a timely request for a hearing by the other party. If a request for a hearing is timely filed, the notice of determination of the Assistant Secretary shall be inoperative, and shall become operative only if the case is later dismissed. If a request for a hearing is not timely filed, the notice of determination shall become the final order of the Secretary.

(3) A request for a hearing shall be filed with the Chief Administrative Law Judge by facsimile (fax), telegram, hand delivery, or next-day delivery service. A copy of the request for a hearing shall be sent by the party requesting a hearing to the complainant or the respondent (employer), as appropriate, on the same day that the hearing is requested, by facsimile (fax), telegram, hand delivery, or next-day delivery service. A copy of the request for a hearing shall also be sent to the Assistant Secretary for Occupational Safety and Health and to the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, D.C. 20210.

§ 24.5 Investigations under the Energy Reorganization Act.

(a) In addition to the investigation procedures set forth in § 24.4, this section sets forth special procedures applicable only to investigations under the Energy Reorganization Act.

(b)(1) A complaint of alleged violation shall be dismissed unless the complainant has made a *prima facie* showing that protected behavior or conduct as provided in § 24.2(b) was a contributing factor in the unfavorable personnel action alleged in the complaint.

(2) The complaint, supplemented as appropriate by interviews of the complainant, must allege the existence of facts and evidence to meet the required elements of a *prima facie* case, as follows:

(i) The employee engaged in a protected activity or conduct, as set forth in § 24.2;

(ii) The respondent knew that the employee engaged in the protected activity;

(iii) The employee has suffered an unfavorable personnel action; and

(iv) The circumstances were sufficient to raise the inference that the protected activity was likely a contributing factor in the unfavorable action.

(3) For purposes of determining whether to investigate, the complainant will be considered to have met the required burden if the complaint on its face, supplemented as appropriate through interviews of the complainant, alleges the existence of facts and either direct or circumstantial evidence to meet the required elements of a *prima facie* case, *i.e.*, to give rise to an inference that the respondent knew that the employee engaged in protected activity, and that the protected activity was likely a reason for the personnel action. Normally the burden is satisfied, for example, if it is shown that the adverse personnel action took place shortly after the protected activity, giving rise to the inference that it was a factor in the adverse action. If these elements are not substantiated in the investigation, the investigation will cease.

(c)(1) Notwithstanding a finding that a complainant has made a *prima facie* showing required by this section with respect to complaints filed under the Energy Reorganization Act, an investigation of the complainant's complaint under that Act shall be discontinued if the respondent demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of the complainant's protected behavior or conduct.

(2) Upon receipt of a complaint under the Energy Reorganization Act, the respondent shall be provided with a copy of the complaint (as supplemented by interviews of the complainant, if any) and advised that any evidence it may wish to submit to rebut the allegations in the complaint must be received within five business days from receipt of notification of the complaint. If the respondent fails to make a timely response or if the response does not demonstrate by clear and convincing evidence that the unfavorable action would have occurred absent the protected conduct, the investigation shall proceed. The investigation shall proceed whenever it is necessary or appropriate to confirm or verify the information provided by respondent.

(d) Whenever the Assistant Secretary dismisses a complaint pursuant to this section without completion of an investigation, the Assistant Secretary shall give notice of the dismissal, which shall contain a statement of reasons therefor, by certified mail to the complainant, the respondent, and their representatives. At the same time the Assistant Secretary shall file with the Chief Administrative Law Judge, U.S. Department of Labor, a copy of the complaint and a copy of the notice of dismissal. The notice of dismissal shall constitute a notice of determination within the meaning of § 24.4(d), and any request for a hearing shall be filed and served in accordance with the provisions of § 24.4(d) (2) and (3).

§ 24.6 Hearings.

(a) *Notice of hearing.* The administrative law judge to whom the case is assigned shall, within seven calendar days following receipt of the request for hearing, notify the parties by certified mail, directed to the last known address of the parties, of a day, time and place for hearing. All parties shall be given at least five days notice of such hearing. However, because of the time constraints upon the Secretary by the above statutes, no requests for postponement shall be granted except for compelling reasons or with the consent of all parties.

(b) *Consolidated hearings.* When two or more hearings are to be held, and the same or substantially similar evidence is relevant and material to the matters at issue at each such hearing, the Chief Administrative Law Judge may, upon motion by any party or on his own or her own motion, order that a consolidated hearing be conducted. Where consolidated hearings are held, a single record of the proceedings shall be made and the evidence introduced in one case may be considered as introduced in the others, and a separate or joint decision shall be made, as appropriate.

(c) *Place of hearing.* The hearing shall, where possible, be held at a place within 75 miles of the complainant's residence.

(d) *Right to counsel.* In all proceedings under this part, the parties shall have the right to be represented by counsel.

(e) *Procedures, evidence and record—* (1) *Evidence.* Formal rules of evidence shall not apply, but rules or principles designed to assure production of the most probative evidence available shall be applied. The administrative law judge may exclude evidence which is immaterial, irrelevant, or unduly repetitious.

(2) *Record of hearing.* All hearings shall be open to the public and shall be mechanically or stenographically reported. All evidence upon which the administrative law judge relies for decision shall be contained in the transcript of testimony, either directly or by appropriate reference. All exhibits and other pertinent documents or records, either in whole or in material part, introduced as evidence, shall be marked for identification and incorporated into the record.

(3) *Oral argument; briefs.* Any party, upon request, may be allowed a reasonable time for presentation of oral argument and to file a prehearing brief or other written statement of fact or law. A copy of any such prehearing brief or other written statement shall be filed with the Chief Administrative Law Judge or the administrative law judge assigned to the case before or during the proceeding at which evidence is submitted to the administrative law judge and shall be served upon each party. Post-hearing briefs will not be permitted except at the request of the administrative law judge. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge and shall be due within the time prescribed by the administrative law judge.

(4) *Dismissal for cause.* (i) The administrative law judge may, at the request of any party, or on his or her own motion, issue a recommended decision and order dismissing a claim:

(A) Upon the failure of the complainant or his or her representative to attend a hearing without good cause; or

(B) Upon the failure of the complainant to comply with a lawful order of the administrative law judge.

(ii) In any case where a dismissal of a claim, defense, or party is sought, the administrative law judge shall issue an order to show cause why the dismissal should not be granted and afford all parties a reasonable time to respond to such order. After the time for response has expired, the administrative law judge shall take such action as is appropriate to rule on the dismissal, which may include a recommended order dismissing the claim, defense or party.

(f)(1) At the Assistant Secretary's discretion, the Assistant Secretary may participate as a party or participate as *amicus curiae* at any time in the proceedings. This right to participate shall include, but is not limited to, the right to petition for review of a recommended decision of an administrative law judge, including a decision based on a settlement agreement between complainant and respondent, to dismiss a complaint or to issue an order encompassing the terms of the settlement.

(2) Copies of pleadings in all cases, whether or not the Assistant Secretary is participating in the proceeding, shall be sent to the Assistant Secretary, Occupational Safety and Health Administration, and to the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, D.C. 20210.

(g)(1) A Federal agency which is interested in a proceeding may participate as *amicus curiae* at any time in the proceedings, at the agency's discretion.

(2) At the request of a Federal agency which is interested in a proceeding, copies of all pleadings in a case shall be served on the Federal agency, whether or not the agency is participating in the proceeding.

§ 24.7 Recommended decision and order.

(a) Unless the parties jointly request or agree to an extension of time, the administrative law judge shall issue a recommended decision within 20 days after the termination of the proceeding at which evidence was submitted. The recommended decision shall contain appropriate findings, conclusions, and a recommended order and be served upon all parties to the proceeding.

(b) In cases under the Energy Reorganization Act, a determination that a violation has occurred may only be made if the complainant has demonstrated that protected behavior or conduct was a contributing factor in the unfavorable personnel action alleged in the complaint. Relief may not be ordered if the respondent demonstrates by clear and convincing evidence that it would have taken the same unfavorable personnel action in the absence of such behavior. The proceeding before the

administrative law judge shall be a proceeding on the merits of the complaint. Neither the Assistant Secretary's determination to dismiss a complaint pursuant to § 24.5 without completing an investigation nor the Assistant Secretary's determination not to dismiss a complaint is subject to review by the administrative law judge, and a complaint may not be remanded for the completion of an investigation on the basis that such a determination to dismiss was made in error.

(c)(1) Upon the conclusion of the hearing and the issuance of a recommended decision that the complaint has merit, and that a violation of the Act has occurred, the administrative law judge shall issue a recommended order that the respondent take appropriate affirmative action to abate the violation, including reinstatement of the complainant to his or her former position, if desired, together with the compensation (including back pay), terms, conditions, and privileges of that employment, and, when appropriate, compensatory damages. In cases arising under the Safe Drinking Water Act or the Toxic Substances Control Act, exemplary damages may also be awarded when appropriate.

(2) In cases brought under the Energy Reorganization Act, when an administrative law judge issues a recommended order that the complaint has merit and containing the relief prescribed in paragraph (c)(1) of this section, the administrative law judge shall also issue a preliminary order providing all of the relief specified in paragraph (c)(1) of this section with the exception of compensatory damages. This preliminary order shall constitute the preliminary order of the Secretary and shall be effective immediately, whether or not a petition for review is filed with the Administrative Review Board. Any award of compensatory damages shall not be effective until the final decision is issued by the Administrative Review Board.

(d) The recommended decision of the administrative law judge shall become the final order of the Secretary unless, pursuant to § 24.8, a petition for review is timely filed with the Administrative Review Board.

§ 24.8 Review by the Administrative Review Board.

(a) Any party desiring to seek review, including judicial review, of a recommended decision of the administrative law judge shall file a petition for review with the Administrative Review Board ("the Board"), which has been delegated the authority to act for the Secretary and issue final decisions under this part. To be effective, such a petition must be received within ten business days of the date of the recommended decision of the administrative law judge, and shall be served on all parties and on the Chief Administrative Law Judge. If a timely petition for review is filed, the recommended decision of the administrative law judge shall be inoperative unless and until the Board issues an order adopting the recommended decision, except that for cases arising under the Energy Reorganization Act of 1974, a preliminary order of relief shall be effective while review is conducted by the Board.

(b) Copies of the petition for review and all briefs shall be served on the Assistant Secretary, Occupational Safety and Health Administration, and on the Associate Solicitor, Division of Fair Labor Standards, U.S. Department of Labor, Washington, D.C. 20210.

(c) The final decision shall be issued within 90 days of the receipt of the complaint and shall be served upon all parties and the Chief Administrative Law Judge by mail to the last known address.

(d)(1) If the Board concludes that the party charged has violated the law, the final order shall order the party charged to take appropriate affirmative action to abate the violation, including reinstatement of the complainant to that person's former or substantially equivalent position, if desired, together with the compensation (including back pay), terms, conditions, and privileges of that employment, and, when appropriate, compensatory damages. In cases arising under the Safe Drinking Water Act or the Toxic Substances Control Act, exemplary damages may also be awarded when appropriate.

(2) If such a final order is issued, the Board, at the request of the complainant, shall assess against the respondent a sum equal to the aggregate amount of all costs and expenses (including attorney and expert witness fees) reasonably incurred by the complainant, as determined by the Board, for, or in connection with, the bringing of the complaint upon which the order was issued.

(e) If the Board determines that the party charged has not violated the law, an order shall be issued denying the complaint.

§ 24.9 Exception.

This part shall have no application to any employee alleging activity prohibited by this part who, acting without direction from his or her employer (or the employer's agent), deliberately causes a violation of any requirement of a Federal statute listed in § 24.1(a).

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Appendix A to Part 24—Your Rights Under the Energy Reorganization Act

YOUR RIGHTS UNDER THE ERA

THE ENERGY REORGANIZATION ACT (ERA), MAKES IT ILLEGAL FOR AN EMPLOYER COVERED BY THE ACT -- INCLUDING A LICENSEE OF THE NUCLEAR REGULATORY COMMISSION (NRC) OR AN AGREEMENT STATE, AN APPLICANT FOR A LICENSE, A CONTRACTOR OR SUBCONTRACTOR OF A LICENSEE OR APPLICANT AND A CONTRACTOR OR SUBCONTRACTOR OF THE DEPARTMENT OF ENERGY (DOE) UNDER THE ATOMIC ENERGY ACT (AEA) -- TO DISCHARGE OR OTHERWISE DISCRIMINATE AGAINST AN EMPLOYEE IN TERMS OF COMPENSATION, CONDITIONS OR PRIVILEGES OF EMPLOYMENT BECAUSE THE EMPLOYEE OR ANY PERSON ACTING AT AN EMPLOYEE'S REQUEST PERFORMS A PROTECTED ACTIVITY.

RIGHT TO RAISE A SAFETY CONCERN: YOU ARE ENGAGED IN PROTECTED ACTIVITY WHEN YOU:
(1) NOTIFY YOUR EMPLOYER OF AN ALLEGED VIOLATION OF THE ERA OR THE AEA;
(2) REFUSE TO ENGAGE IN ANY PRACTICE MADE UNLAWFUL BY THE ERA OR THE AEA, IF YOU HAVE IDENTIFIED THE ALLEGED ILLEGALITY TO THE EMPLOYER;
(3) TESTIFY BEFORE CONGRESS OR AT ANY FEDERAL OR STATE PROCEEDING REGARDING ANY PROVISION OR PROPOSED PROVISION OF THE ERA OR THE AEA;
(4) COMMENCE OR CAUSE TO BE COMMENCED A PROCEEDING UNDER THE ERA, OR A PROCEEDING FOR THE ADMINISTRATION OR ENFORCEMENT OF ANY REQUIREMENT IMPOSED UNDER THE ERA;
(5) TESTIFY OR ARE ABOUT TO TESTIFY IN ANY SUCH PROCEEDING; OR
(6) ASSIST OR PARTICIPATE IN SUCH A PROCEEDING OR IN ANY OTHER ACTION TO CARRY OUT THE PURPOSES OF THE ERA OR THE AEA.

UNLAWFUL ACTS BY EMPLOYERS: IT IS UNLAWFUL FOR AN EMPLOYER TO INTIMIDATE, THREATEN, RESTRAIN, COERCE, BLACKLIST, DISCHARGE OR IN ANY OTHER MANNER DISCRIMINATE AGAINST ANY EMPLOYEE BECAUSE THE EMPLOYEE HAS ENGAGED IN PROTECTED ACTIVITY.

COMPLAINT: AN EMPLOYEE OR EMPLOYEE REPRESENTATIVE MAY FILE A COMPLAINT CHARGING DISCRIMINATION IN VIOLATION OF THE ERA WITHIN 180 DAYS OF THE DISCRIMINATORY ACTION. A COMPLAINT MUST BE IN WRITING AND SHOULD INCLUDE A FULL STATEMENT OF FACTS, INCLUDING THE PROTECTED ACTIVITY ENGAGED IN BY THE EMPLOYEE, KNOWLEDGE BY THE EMPLOYER OF THE PROTECTED ACTIVITY, AND THE BASIS FOR BELIEVING THAT THE ACTIVITY RESULTED IN DISCRIMINATION AGAINST THE EMPLOYEE BY THE EMPLOYER. A COMPLAINT MAY BE FILED IN PERSON OR BY MAIL AT THE NEAREST LOCAL OFFICE OF THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA), U.S. GOVERNMENT, DEPARTMENT OF LABOR, OR WITH THE OFFICE OF THE ASSISTANT SECRETARY, OSHA, U.S. DEPARTMENT OF LABOR, WASHINGTON, D.C. 20210.

ENFORCEMENT: OSHA WILL REVIEW THE COMPLAINT TO ENSURE THAT IT MAKES AN INITIAL SHOWING OF DISCRIMINATION. IF NOT, OR IF THE EMPLOYER PROVIDES CLEAR AND CONVINCING EVIDENCE THAT THERE WAS NO DISCRIMINATION, THERE WILL BE NO INVESTIGATION. IF THE REQUIRED SHOWING IS MADE, OSHA WILL NOTIFY THE EMPLOYER AND CONDUCT AN INVESTIGATION TO DETERMINE WHETHER A VIOLATION HAS OCCURRED. EITHER THE EMPLOYEE OR THE EMPLOYER MAY REQUEST A HEARING BEFORE AN ALJ.

RELIEF: IF DISCRIMINATION IS FOUND, THE EMPLOYER WILL BE REQUIRED TO PROVIDE APPROPRIATE RELIEF, INCLUDING REINSTATEMENT (EVEN FOR THE PERIOD BETWEEN THE ALJ DECISION AND APPEAL), BACK WAGES OR COMPENSATION FOR INJURY SUFFERED FROM THE DISCRIMINATION, AND ATTORNEY'S FEES AND COSTS.

CAUTION: THE PRECEDING PROTECTIONS AND REMEDIES ARE NOT AVAILABLE TO EMPLOYEES WHO ENGAGE IN DELIBERATE VIOLATIONS OF THE ERA OR THE AEA.

FOR ADDITIONAL INFORMATION: CONTACT THE OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, U.S. GOVERNMENT, DEPARTMENT OF LABOR (LISTED IN TELEPHONE DIRECTORIES), OR SEE THE DEPARTMENT OF LABOR'S WEB SITE AT: WWW.OSHA.GOV

EMPLOYERS ARE REQUIRED TO DISPLAY THIS POSTER WHERE EMPLOYEES CAN READILY SEE IT.

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Federal Register

Vol. 63, No. 26

Monday, February 9, 1998

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FEDERAL REGISTER PAGES AND DATES, FEBRUARY

5223–5446 2
5447–5720 3
5721–5858 4
5859–6044 5
6045–6468 6
6469–6626 9

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7066 5717
7067 5719

Executive Orders:
13073 6467

Administrative Orders:
No. 98–12 of January 28, 1998 6469
No. 98–13 of January 30, 1998 5857

5 CFR

532 6471

7 CFR

6 5223
1948 6045
1951 6045
4274 6045

Proposed Rules:
205 ..... 5285, 6498
723 5285
958 5472
980 5472
4284 5474

8 CFR

Proposed Rules:
274a 5287
299 5287

9 CFR

93 6063

10 CFR

Proposed Rules:
2 5315

12 CFR

9 6472
226 6474
614 5721
615 5223
627 5721
791 5859

Proposed Rules:
226 6112
708 5898
937 5315

13 CFR

107 5859

Proposed Rules:
121 ..... 5223, 5480

14 CFR

39 ..... 5224, 5225, 5226, 5725, 5873, 5875, 5876, 5878, 5879, 5881, 6064, 6066, 6069
71 ..... 5228, 5229, 5230, 5231, 5232, 6001
95 5882
97 ..... 5447, 5886

Proposed Rules:
39 ..... 5318, 5320, 5322, 5324, 5325, 5327, 5763, 5765, 5766, 5898, 5900, 5902, 5904, 6499, 6501
259 5329

15 CFR

303 5887
740 5448
742 5448

17 CFR

11 5232
211 6474
228 6470
229 6470
230 6470
239 6470
274 6470

Proposed Rules:
1 6112
33 6112

18 CFR

157 6476
388 5452
430 6477

19 CFR

Proposed Rules:
10 5329
12 5329
18 5329
24 5329
111 5329
113 5329
114 5329
125 5329
134 5329
145 5329
162 5329
171 5329
172 5329

21 CFR

54 5233
312 5233
314 5233
320 5233
330 5233
510 5254
520 5254
524 5254
558 5254
601 5233
807 5233
812 5233
814 5233

860.....5233
Proposed Rules:
601.....5338

22 CFR

51.....6478
72.....6479
92.....6479

24 CFR

200.....5422
Proposed Rules:
203.....5660

26 CFR

1.....5834

27 CFR

53.....5727

29 CFR

24.....6614
Proposed Rules:
1910.....5905

30 CFR

946.....5888
Proposed Rules:
206.....6113
904.....6286

31 CFR

203.....5644
Proposed Rules:
210.....5426, 6001

33 CFR

80.....5728
82.....5728
84.....5728
87.....5728
88.....5728
90.....5728
100.....5455, 6071
117.....5456, 5457, 5458, 6073
160.....5458
165.....6071
Proposed Rules:
Ch. I.....5767
110.....6141
165.....6142
167.....6502

36 CFR

1193.....5608

37 CFR

1.....5732

39 CFR

20.....5458
262.....6480
265.....6480

40 CFR

50.....6032
51.....6483
52.....5268, 5269, 5460, 6073, 6483, 6484, 6487, 6489, 6491
60.....5891, 6493
61.....5891, 6493
70.....6494
73.....5734
82.....6008
180.....5735, 5737, 6495
244.....5739
245.....5739
721.....5740, 6496
Proposed Rules:
52.....5339, 5484, 5489, 5834, 6143, 6504, 6505
62.....5834
63.....6288
73.....5773
82.....5460, 5906
144.....5907
146.....5907
180.....5907
186.....5907
300.....6507
444.....6392
445.....6426
799.....5915

41 CFR

101–46.....5892
302–10.....5742

43 CFR

8372.....6075
8560.....6075

44 CFR

206.....5895

46 CFR

Proposed Rules:
Ch. I.....5767

47 CFR

25.....6496
43.....5743
63.....5743
64.....5743
73.....5464, 5743, 5744, 6077, 6078, 6079
101.....6079
Proposed Rules:
73.....6144

48 CFR

225.....5744
246.....6109
252.....5744
932.....5272
970.....5272
Proposed Rules:
4.....5714
7.....5714
8.....5714
15.....5714
16.....5714
17.....5714
22.....5714
27.....5714
28.....5714
31.....5714
32.....5714
35.....5714
42.....5714
43.....5714
44.....5714
45.....5714
49.....5714
51.....5714
52.....5714
53.....5714

49 CFR

192.....5464
572.....5746
Proposed Rules:
192.....5339
193.....5918
195.....5339, 5918
531.....5774
571.....6144

50 CFR

216.....5277
229.....5748
622.....6109
679.....5836, 6110, 6111
Proposed Rules:
18.....5340
622.....6004
648.....6510
679.....5777

REMINDERS

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.

RULES GOING INTO EFFECT FEBRUARY 9, 1998

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Marine mammals:
Designated critical habitats—
Umpqua river cutthroat trout; published 1-9-98

DEFENSE DEPARTMENT
Federal Acquisition Regulation (FAR):
Commercial bills of lading; small package shipments; published 12-9-97
Contractor overhead rates; final settlement; published 12-9-97
Contractor personnel compensation; published 12-9-97
General Accounting Office bid protests; conformation; published 12-9-97
Independent research and development/bid and proposal costs ceiling; requirement removed (1996 FY and beyond); published 12-9-97
Information Technology Management Reform Act of 1996; implementation; published 12-9-97
Novation and related agreements; published 12-9-97
Part 30 deviations; published 12-9-97
Preaward survey of prospective contractor; quality assurance; published 12-9-97
Simplified acquisition procedures reorganization; electronic commerce use; published 12-9-97
Trade sanction exemptions; reporting requirements; published 12-9-97

ENERGY DEPARTMENT
Federal Energy Regulatory Commission
Electric utilities (Federal Power Act):
Open access; non-discriminatory transmission services provided by public utilities—
Wholesale competition promotion; stranded costs recovery by public and transmitting utilities; published 12-9-97

ENVIRONMENTAL PROTECTION AGENCY
Air pollutants, hazardous; national emission standards:
Perchloroethylene; dry cleaning facilities; published 12-10-97
Air pollution; standards of performance for new stationary sources:
Metals emissions determination; correction; published 2-9-98
Air quality implementation plans:
Preparation, adoption, and submittal—
Federal regulatory reform; correction; published 2-9-98
Vehicle inspection maintenance program evaluation requirements; published 1-9-98
Clean Air Act:
Fuels and fuel additives regulation; OMB control numbers; published 1-8-98
State operating permits programs—
Massachusetts; correction; published 2-9-98
Drinking water:
Marine sanitation device standards—
Application requirements specific to drinking water intake no discharge zones; published 1-8-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Bifenthrin; correction; published 2-9-98
Toxic substances:
Significant new uses—
Ethane, 1,1,1 trifluoro-; correction; published 2-9-98

FEDERAL COMMUNICATIONS COMMISSION
Common carrier service:
Foreign participation in U.S. telecommunications market and non-U.S.-licensed satellites providing domestic and international service; published 2-9-98
Common carrier services:
Foreign participation in U.S. telecommunications market; effective competitive opportunities test changes; correction; published 2-4-98

FEDERAL RESERVE SYSTEM
Securities credit transactions:
OTC margin stocks and foreign stocks lists (Regulations G, T, U, and X); published 1-27-98

GENERAL SERVICES ADMINISTRATION
Federal Acquisition Regulation (FAR):
Commercial bills of lading; small package shipments; published 12-9-97
Contractor overhead rates; final settlement; published 12-9-97
Contractor personnel compensation; published 12-9-97
General Accounting Office bid protests; conformation; published 12-9-97
Independent research and development/bid and proposal costs ceiling; requirement removed (1996 FY and beyond); published 12-9-97
Information Technology Management Reform Act of 1996; implementation; published 12-9-97
Novation and related agreements; published 12-9-97
Part 30 deviations; published 12-9-97
Preaward survey of prospective contractor; quality assurance; published 12-9-97
Simplified acquisition procedures reorganization; electronic commerce use; published 12-9-97
Trade sanction exemptions; reporting requirements; published 12-9-97

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Mortgage and loan insurance programs:
Multifamily housing mortgage insurance premiums; electronic payment; published 1-8-98

LABOR DEPARTMENT
Wage and Hour Division
Student-learners, apprentices, learners, messengers, and student workers; employment; regulations consolidation; published 12-9-97

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
Federal Acquisition Regulation (FAR):
Commercial bills of lading; small package shipments; published 12-9-97
Contractor overhead rates; final settlement; published 12-9-97
Contractor personnel compensation; published 12-9-97
General Accounting Office bid protests; conformation; published 12-9-97
Independent research and development/bid and proposal costs ceiling; requirement removed (1996 FY and beyond); published 12-9-97
Information Technology Management Reform Act of 1996; implementation; published 12-9-97
Novation and related agreements; published 12-9-97
Part 30 deviations; published 12-9-97
Preaward survey of prospective contractor; quality assurance; published 12-9-97
Simplified acquisition procedures reorganization; electronic commerce use; published 12-9-97
Trade sanction exemptions; reporting requirements; published 12-9-97

POSTAL SERVICE
Freedom of Information Act; implementation; published 2-9-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Boeing; published 1-23-98
Empresa Brasileira de Aeronautica S.A.; published 1-9-98

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Motor carrier safety standards:
Glazing materials; parts and accessories necessary for safe operation; published 1-9-98

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Debt instruments with original issue discount; annuity contracts; published 1-8-98

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT
Agricultural Marketing Service
Fruits, vegetables, and other products, fresh:
Destination market inspections; fees; comments due by 2-17-98; published 12-17-97

AGRICULTURE DEPARTMENT
Animal and Plant Health Inspection Service
Exportation and importation of animals and animal products:
Rinderpest and foot-and-mouth disease, etc.; disease status change—
Luxembourg; comments due by 2-17-98; published 12-17-97

AGRICULTURE DEPARTMENT
Grain Inspection, Packers and Stockyards Administration
Grain standards:
Rye; comments due by 2-17-98; published 12-17-97

COMMERCE DEPARTMENT
Export Administration Bureau
Export licensing:
Commerce control list—
Wassenaar Arrangement List of Dual-Use Items; implementation; commerce control list revisions and reporting requirements; comments due by 2-17-98; published 1-15-98

COMMERCE DEPARTMENT
National Oceanic and Atmospheric Administration
Endangered and threatened species:
Atlantic green and hawksbill turtles—
Critical habitat designation; comments due by 2-17-98; published 12-19-97
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Shortraker/rougheye rockfish; comments due by 2-17-98; published 1-16-98
Magnuson Act provisions—
Essential fish habitat; comments due by 2-17-98; published 12-19-97
Pacific Halibut Commission, International:
Pacific halibut fisheries—
Catch sharing plans; comments due by 2-17-98; published 1-26-98

DEFENSE DEPARTMENT
Acquisition regulations:
Uniform procurement instrument identification; comments due by 2-17-98; published 12-16-97

DEFENSE DEPARTMENT
Navy Department
Acquisition regulations:
Shipbuilding capability preservation agreements; comments due by 2-20-98; published 12-22-97

ENVIRONMENTAL PROTECTION AGENCY
Air programs:
Outer Continental Shelf regulations—
California; consistency update; comments due by 2-17-98; published 1-16-98
Ozone areas attaining 1-hour standard; identification of areas where standard will cease to apply; comments due by 2-17-98; published 1-16-98
Air quality planning purposes; designation of areas:
California; comments due by 2-17-98; published 12-19-97
Hazardous waste program authorizations:
Florida; incorporation by reference; comments due by 2-19-98; published 1-20-98
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Ethalflualin; comments due by 2-17-98; published 12-17-97
Primisulfuron-methyl; comments due by 2-17-98; published 12-17-97
Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update; comments due by 2-20-98; published 1-21-98
Water pollution; effluent guidelines for point source categories:
Industrial laundry; comments due by 2-17-98; published 12-17-97

FEDERAL COMMUNICATIONS COMMISSION
Radio services, special:
Fixed microwave services—
Transfer of license owned by small business to non-small business or small business eligible for smaller bidding credit; partitioning and disaggregation; comments due by 2-20-98; published 1-21-98

HEALTH AND HUMAN SERVICES DEPARTMENT
Children and Families Administration
Head Start Program:
Indian tribal grantees replacement; agency identification; procedural change; comments due by 2-17-98; published 12-16-97
Personal Responsibility and Work Opportunity Reconciliation Act of 1996; implementation:
Temporary assistance for needy families program; comments due by 2-18-98; published 11-20-97

HEALTH AND HUMAN SERVICES DEPARTMENT
Health Care Financing Administration
Medicare:
Medicare+Choice program; comment request; comments due by 2-19-98; published 1-20-98

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Catesbaea melanocarpa; comments due by 2-17-98; published 12-16-97
Flatwoods salamander; comments due by 2-17-98; published 12-16-97
Importation, exportation, and transportation of wildlife:
Humane and healthful transport of wild mammals, birds, reptiles, and amphibians to U.S.; comments due by 2-17-98; published 12-5-97

LABOR DEPARTMENT
Mine Safety and Health Administration
Coal and metal and nonmetal mine safety and health:
Occupational noise exposure
Miners and miners' representatives; right to observe required operator monitoring, etc.; comments due by 2-17-98; published 12-31-97

LABOR DEPARTMENT
Occupational Safety and Health Administration
Safety and health standards:
Tuberculosis; occupational exposure
Meetings; comments due by 2-17-98; published 2-5-98

MERIT SYSTEMS PROTECTION BOARD
Practices and procedures:
Uniformed Services Employment and Reemployment Rights Act; implementation—
Personnel actions involving noncompliance of agency employers or Personnel Management Office; comments due by 2-20-98; published 12-22-97

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Mergers or conversions of federally-insured credit unions—
Plain English disclosure statement; comments due by 2-16-98; published 2-5-98
Voluntary termination or conversion of insured status; disclosure forms amended; comments due by 2-16-98; published 2-5-98

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
North Carolina; comments due by 2-17-98; published 12-17-97
Merchant marine officers and seamen:
Federal pilotage for vessels in foreign trade; comments due by 2-19-98; published 1-20-98

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Agusta S.p.A.; comments due by 2-17-98; published 12-17-97
AlliedSignal Aerospace Bendix/King; comments due by 2-19-98; published 12-19-97
Boeing; comments due by 2-19-98; published 1-5-98
Eurocopter Deutschland GmbH; comments due by

2-17-98; published 12-16-97
Eurocopter France; comments due by 2-17-98; published 12-19-97
McDonnell Douglas; comments due by 2-19-98; published 1-5-98
Pilatus Aircraft Ltd.; comments due by 2-20-98; published 12-19-97
Class D and Class E airspace; comments due by 2-19-98; published 1-20-98
Class E airspace; comments due by 2-17-98; published 1-16-98

VETERANS AFFAIRS DEPARTMENT

Vocational rehabilitation and education:
Veterans education—
Educational assistance awards to veterans who were voluntarily discharged; effective dates; comments due by 2-17-98; published 12-18-97

LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/nara/fedreg/fedreg.html.

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S. 1575/P.L. 105–154

To rename the Washington National Airport located in the District of Columbia and Virginia as the "Ronald Reagan Washington National Airport". (Feb. 6, 1998; 112 Stat. 3)

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–032–00001–8)	$5.00	Feb. 1, 1997
3 (1996 Compilation and Parts 100 and 101)	(869–032–00002–6)	20.00	[1] Jan. 1, 1997
4	(869–032–00003–4)	7.00	Jan. 1, 1997
5 Parts:			
1–699	(869–032–00004–2)	34.00	Jan. 1, 1997
700–1199	(869–032–00005–1)	26.00	Jan. 1, 1997
1200–End, 6 (6 Reserved)	(869–032–00006–9)	33.00	Jan. 1, 1997
7 Parts:			
0–26	(869–032–00007–7)	26.00	Jan. 1, 1997
27–52	(869–032–00008–5)	30.00	Jan. 1, 1997
53–209	(869–032–00009–3)	22.00	Jan. 1, 1997
210–299	(869–032–00010–7)	44.00	Jan. 1, 1997
300–399	(869–032–00011–5)	22.00	Jan. 1, 1997
400–699	(869–032–00012–3)	28.00	Jan. 1, 1997
700–899	(869–032–00013–1)	31.00	Jan. 1, 1997
900–999	(869–032–00014–0)	40.00	Jan. 1, 1997
1000–1199	(869–032–00015–8)	45.00	Jan. 1, 1997
1200–1499	(869–032–00016–6)	33.00	Jan. 1, 1997
1500–1899	(869–032–00017–4)	53.00	Jan. 1, 1997
1900–1939	(869–032–00018–2)	19.00	Jan. 1, 1997
1940–1949	(869–032–00019–1)	40.00	Jan. 1, 1997
1950–1999	(869–032–00020–4)	42.00	Jan. 1, 1997
2000–End	(869–032–00021–2)	20.00	Jan. 1, 1997
8	(869–032–00022–1)	30.00	Jan. 1, 1997
9 Parts:			
1–199	(869–032–00023–9)	39.00	Jan. 1, 1997
200–End	(869–032–00024–7)	33.00	Jan. 1, 1997
10 Parts:			
0–50	(869–032–00025–5)	39.00	Jan. 1, 1997
51–199	(869–032–00026–3)	31.00	Jan. 1, 1997
200–499	(869–032–00027–1)	30.00	Jan. 1, 1997
500–End	(869–032–00028–0)	42.00	Jan. 1, 1997
11	(869–032–00029–8)	20.00	Jan. 1, 1997
12 Parts:			
1–199	(869–032–00030–1)	16.00	Jan. 1, 1997
200–219	(869–032–00031–0)	20.00	Jan. 1, 1997
220–299	(869–032–00032–8)	34.00	Jan. 1, 1997
300–499	(869–032–00033–6)	27.00	Jan. 1, 1997
500–599	(869–032–00034–4)	24.00	Jan. 1, 1997
600–End	(869–032–00035–2)	40.00	Jan. 1, 1997
13	(869–032–00036–1)	23.00	Jan. 1, 1997
14 Parts:			
1–59	(869–032–00037–9)	44.00	Jan. 1, 1997
60–139	(869–032–00038–7)	38.00	Jan. 1, 1997
140–199	(869–032–00039–5)	16.00	Jan. 1, 1997
200–1199	(869–032–00040–9)	30.00	Jan. 1, 1997
1200–End	(869–032–00041–7)	21.00	Jan. 1, 1997
15 Parts:			
0–299	(869–032–00042–5)	21.00	Jan. 1, 1997
300–799	(869–032–00043–3)	32.00	Jan. 1, 1997
800–End	(869–032–00044–1)	22.00	Jan. 1, 1997
16 Parts:			
0–999	(869–032–00045–0)	30.00	Jan. 1, 1997
1000–End	(869–032–00046–8)	34.00	Jan. 1, 1997
17 Parts:			
1–199	(869–032–00048–4)	21.00	Apr. 1, 1997
200–239	(869–032–00049–2)	32.00	Apr. 1, 1997
240–End	(869–032–00050–6)	40.00	Apr. 1, 1997
18 Parts:			
1–399	(869–032–00051–4)	46.00	Apr. 1, 1997
400–End	(869–032–00052–2)	14.00	Apr. 1, 1997
19 Parts:			
1–140	(869–032–00053–1)	33.00	Apr. 1, 1997
141–199	(869–032–00054–9)	30.00	Apr. 1, 1997
200–End	(869–032–00055–7)	16.00	Apr. 1, 1997
20 Parts:			
1–399	(869–032–00056–5)	26.00	Apr. 1, 1997
400–499	(869–032–00057–3)	46.00	Apr. 1, 1997
500–End	(869–032–00058–1)	42.00	Apr. 1, 1997
21 Parts:			
1–99	(869–032–00059–0)	21.00	Apr. 1, 1997
100–169	(869–032–00060–3)	27.00	Apr. 1, 1997
170–199	(869–032–00061–1)	28.00	Apr. 1, 1997
200–299	(869–032–00062–0)	9.00	Apr. 1, 1997
300–499	(869–032–00063–8)	50.00	Apr. 1, 1997
500–599	(869–032–00064–6)	28.00	Apr. 1, 1997
600–799	(869–032–00065–4)	9.00	Apr. 1, 1997
800–1299	(869–032–00066–2)	31.00	Apr. 1, 1997
1300–End	(869–032–00067–1)	13.00	Apr. 1, 1997
22 Parts:			
1–299	(869–032–00068–9)	42.00	Apr. 1, 1997
300–End	(869–032–00069–7)	31.00	Apr. 1, 1997
23	(869–032–00070–1)	26.00	Apr. 1, 1997
24 Parts:			
0–199	(869–032–00071–9)	32.00	Apr. 1, 1997
200–499	(869–032–00072–7)	29.00	Apr. 1, 1997
500–699	(869–032–00073–5)	18.00	Apr. 1, 1997
700–1699	(869–032–00074–3)	42.00	Apr.1, 1997
1700–End	(869–032–00075–1)	18.00	Apr. 1, 1997
25	(869–032–00076–0)	42.00	Apr. 1, 1997
26 Parts:			
§§ 1.0–1–1.60	(869–032–00077–8)	21.00	Apr. 1, 1997
§§ 1.61–1.169	(869–032–00078–6)	44.00	Apr. 1, 1997
§§ 1.170–1.300	(869–032–00079–4)	31.00	Apr. 1, 1997
§§ 1.301–1.400	(869–032–00080–8)	22.00	Apr. 1, 1997
§§ 1.401–1.440	(869–032–00081–6)	39.00	Apr. 1, 1997
§§ 1.441–1.500	(869–032–00082–4)	22.00	Apr. 1, 1997
§§ 1.501–1.640	(869–032–00083–2)	28.00	Apr. 1, 1997
§§ 1.641–1.850	(869–032–00084–1)	33.00	Apr. 1, 1997
§§ 1.851–1.907	(869–032–00085–9)	34.00	Apr. 1, 1997
§§ 1.908–1.1000	(869–032–00086–7)	34.00	Apr. 1, 1997
§§ 1.1001–1.1400	(869–032–00087–5)	35.00	Apr. 1, 1997
§§ 1.1401–End	(869–032–00088–3)	45.00	Apr. 1, 1997
2–29	(869–032–00089–1)	36.00	Apr. 1, 1997
30–39	(869–032–00090–5)	25.00	Apr. 1, 1997
40–49	(869–032–00091–3)	17.00	Apr. 1, 1997
50–299	(869–032–00092–1)	18.00	Apr. 1, 1997
300–499	(869–032–00093–0)	33.00	Apr. 1, 1997
500–599	(869–032–00094–8)	6.00	[4] Apr. 1, 1990
600–End	(869–032–00095–3)	9.50	Apr. 1, 1997
27 Parts:			
1–199	(869–032–00096–4)	48.00	Apr. 1, 1997

Title	Stock Number	Price	Revision Date
200–End	(869–032–00097–2)	17.00	Apr. 1, 1997
28 Parts:			
1–42	(869–032–00098–1)	36.00	July 1, 1997
43–end	(869–032–00099–9)	30.00	July 1, 1997
29 Parts:			
0–99	(869–032–00100–5)	27.00	July 1, 1997
100–499	(869–032–00101–4)	12.00	July 1, 1997
500–899	(869–032–00102–2)	41.00	July 1, 1997
900–1899	(869–032–00103–1)	21.00	July 1, 1997
1900–1910 (§§ 1900 to 1910.999)	(869–032–00104–9)	43.00	July 1, 1997
1910 (§§ 1910.1000 to end)	(869–032–00105–7)	29.00	July 1, 1997
1911–1925	(869–032–00106–5)	19.00	July 1, 1997
1926	(869–032–00107–3)	31.00	July 1, 1997
1927–End	(869–032–00108–1)	40.00	July 1, 1997
30 Parts:			
1–199	(869–032–00109–0)	33.00	July 1, 1997
200–699	(869–032–00110–3)	28.00	July 1, 1997
700–End	(869–032–00111–1)	32.00	July 1, 1997
31 Parts:			
0–199	(869–032–00112–0)	20.00	July 1, 1997
200–End	(869–032–00113–8)	42.00	July 1, 1997
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
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[1] Becouse Title 3 is an annual compilation, this volume and all previous volumes should be retained as o permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains o note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Ports 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 regulotions in Chapters 1 to 49, consult the eleven CFR volumes issued os 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.

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