4–8–99
Vol. 64 No. 67
Pages 17079–17270

Federal Register

Thursday
April 8, 1999

Briefings on how to use the Federal Register
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: April 20, 1999 at 9:00 am.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Presidential Documents

Title 3—

The President

Memorandum of March 31, 1999

Delegation of the Functions Vested in the President by Sections 1601(e) and 1601(g) of the Foreign Affairs Reform and Restructuring Act of 1998, as Enacted in Public Law 105–277

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to you the functions vested in the President by sections 1601(e) and 1601(g) of the Foreign Affairs Reform and Restructuring Act of 1998, as enacted in Public Law 105–277.

The functions delegated by this memorandum may be redelegated as appropriate.

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

William J. Clinton

THE WHITE HOUSE,
Washington, March 31, 1999.

[FR Doc. 99–8901
Filed 4–7–99; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 99–19 of March 31, 1999

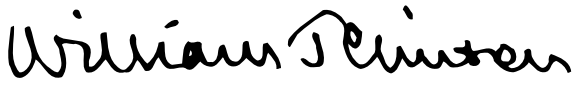
Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $25,000,000 be made available from the U.S. Emergency Refugee and Migration Assistance Fund to meet the urgent and unexpected needs of refugees and migrants.

These funds may be used to meet the urgent and unexpected needs of refugees, displaced persons, victims of conflict, and other persons at risk due to the Kosovo crisis. These funds may be used, as appropriate, to provide contributions to international and nongovernmental organizations.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the use of funds under this authority, and to arrange for the publication of this determination in the **Federal Register.**



THE WHITE HOUSE,
Washington, March 31, 1999.

[FR Doc. 99–8902
Filed 4–7–99; 8:45 am]
Billing code 4710–10–M

Presidential Documents

Presidential Determination No. 99–20 of March 31, 1999

Drawdown of Articles and Services To Support International Relief Efforts Relating to the Kosovo Conflict

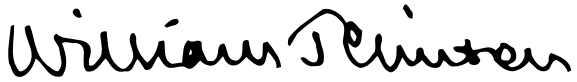
Memorandum for the Secretary of State [and] the Secretary of Defense

Pursuant to the authority vested in me by section 552(c)(2) of the Foreign Assistance Act of 1961, as amended (the ''Act''), I hereby determine that:

(1) as a result of an unforeseen emergency, the provision of assistance under Chapter 6 of Part II of the Act in amounts in excess of funds otherwise available for such assistance is important to the national interests of the United States; and
(2) such unforeseen emergency requires the immediate provision of assistance under Chapter 6 of Part II of the Act.

I therefore direct the drawdown of up to $25 million in commodities and services from the inventory and resources of the Department of Defense to support international relief efforts for Kosovar refugees.

The Secretary of State is authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register.**



THE WHITE HOUSE,
Washington, March 31, 1999.

[FR Doc. 99–8903
Filed 4–7–99; 8:45 am]
Billing code 4710–10–M

Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 254

RIN 0584–AB56

Food Distribution Programs: FDPIHO—Oklahoma Waiver Authority

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule; Confirmation of effective date of direct final rule.

SUMMARY: This action confirms the effective date of the direct final rule, published in the **Federal Register** on January 8, 1999 (64 FR 1097), that amends regulations for the Food Distribution Program for Indian Households in Oklahoma (FDPIHO) at 7 CFR Part 254. The rule reinstates the Food and Nutrition Service's authority to grant waiver requests from Indian Tribal Organizations in Oklahoma to allow Indian tribal households living in urban places to participate in FDPIHO. No adverse comments nor notices of intent to submit adverse comments were received in response to that rule. The comment period ended February 8, 1999.

EFFECTIVE DATE: March 9, 1999.

FOR FURTHER INFORMATION CONTACT: Lillie F. Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, Room 612, 4501 Ford Avenue, Alexandria, Virginia 22302, or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

I. Procedural Matters
II. Background and Discussion of Final Rule

I. Procedural Matters

Regulatory Flexibility Act

This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and is exempt from the provisions of that Act.

Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance Programs under No. 10.570, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, subpart V, and final rule-related notices published at 48 FR 29114, June 24, 1983, and 49 FR 22676, May 31, 1984.

II. Background and Discussion of Final Rule

On January 8, 1999, the Department published a direct final rule to amend the regulatory requirements for FDPIHO at 7 CFR Part 254. The rule expressed the Food and Nutrition Service's intent to reinstate the authority to grant waiver requests from Indian Tribal Organizations in Oklahoma to allow Indian tribal households living in urban places to participate in FDPIHO. It provided a 30-day comment period and stipulated that unless the Department received written adverse comments, or written notices of intent to submit adverse comments, the rule would become effective on March 9, 1999, which was 60 days after publication in the **Federal Register**. Since no adverse comments were received, this action confirms the rule's effective date as March 9, 1999.

Dated: March 25, 1999.

Samuel Chambers, Jr.,

Administrator, Food and Nutrition Service.

[FR Doc. 99–8762 Filed 4–7–99; 8:45 am]

BILLING CODE 3410–30–U

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 790

Description of NCUA; Requests for Agency Action

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: Due to parallel changes to the descriptions of the Central Liquidity Facility's (CLF) Bylaws, NCUA Regulations must be changed to mirror the new descriptions. The position of Vice President to the CLF has been added and the duties of both the President and Vice President positions have been changed in the regulation.

DATES: Effective May 10, 1999.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, President, National Credit Union Central Liquidity Facility, 1775 Duke Street, Alexandria, VA 22314–3428. Telephone Number (703) 518–6360.

SUPPLEMENTARY INFORMATION: Pub. L. 96–630, Title XVIII, 12 U.S.C. 1795 et. seq., enacted in 1979, created the National Credit Union Central Liquidity Facility (CLF). Its purpose is to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

On February 16, 1994, to improve costs and efficiency of CLF operations, the NCUA Board approved the transfer of the CLF to the Office of Examination and Insurance, Division of Risk Management. Staffing was reduced to one full time employee, with the Director of the Division of Risk Management appointed by the NCUA Board to also serve as CLF President.

Due to approaching changes in the credit union environment, in December of 1998 the NCUA Board approved additional staffing changes to the CLF. The Office of Vice President was reinstated and a new staff position of part-time analyst was added. This new analyst position gives the CLF additional analytical depth and increased capacity to cover unexpected emergency developments and potential high-volume usage.

The Board is now amending its regulation which describes the

management staff of the CLF. The reference to the Director of the Office of Risk Management is deleted. The paragraph is corrected to read that the NCUA Board appoints the CLF President and CLF Vice President.

Regulatory Procedures

Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis to describe any significant economic impact any regulation may have on a substantial number of small credit unions. The changes made by this rule are merely housekeeping changes. Therefore, the NCUA Board has determined and certifies that, under the authority granted in 5 U.S.C. 605(b), this final rule will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the Board has determined that a Regulatory Flexibility Act Analysis is not required.

Paperwork Reduction Act

The final rule has no information collection requirements; therefore, no Paperwork Reduction Act analysis is required.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on states interests. Since these are housekeeping changes only, there is no effect on state interests.

List of Subjects in 12 CFR Part 790

Credit unions.

By the National Credit Union Administration Board on March 30, 1999.

Becky Baker,

Secretary of the Board.

Accordingly, for the reasons set forth in the preamble, NCUA amends 12 CFR part 790 as set forth below:

PART 790—DESCRIPTION OF NCUA; REQUESTS FOR AGENCY ACTION

1. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 12 U.S.C. 1789, 12 U.S.C. 1795f.

2. Amend § 790.2 by revising paragraph (b)6)(ii) to read as follows:

§ 790.2 Central and regional office organization.

* * * * *

(b) * * *

(6) * * *

(ii) *NCUA Central Liquidity Facility (CLF).* The CLF was created to improve general financial stability by providing funds to meet the liquidity needs of credit unions. It is a mixed-ownership government corporation under the Government Corporation Control Act (31 U.S.C. 9101 *et seq.*). The CLF is managed by the President, under the general supervision of the NCUA Board which serves as the CLF Board of Directors. The Chairman of the NCUA Board serves as the Chairman of the CLF Board of Directors. The Secretary of the NCUA Board serves as the Secretary of the CLF Board of Directors. The NCUA Board shall appoint the CLF President and Vice President.

[FR Doc. 99–8355 Filed 4–7–99; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–55–AD; Amendment 39–11072; AD 99–06–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10 and MD–11 Series Airplanes, and KC–10 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects erroneous references that appeared in airworthiness directive (AD) 99–06–08 that was published in the **Federal Register** on March 12, 1999 (64 FR 12249). That AD contained incorrect references to certain paragraphs. This AD is applicable to certain McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10 (military) series airplanes. This AD requires a one-time inspection for blockage of the lubrication holes on the forward trunnion spacer assembly, and a one-time inspection of the forward trunnion bolt on the left and right main landing gear (MLG) to detect discrepancies; and repair, if necessary.

EFFECTIVE DATE: Effective April 16, 1999.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 99–06–08, amendment 39–11072, applicable to certain McDonnell Douglas Model DC–10 and MD–11 series airplanes, and KC–10 (military) series airplanes, was published in the **Federal Register** on March 12, 1999 (64 FR 12249). That AD requires a one-time inspection for blockage of the lubrication holes on the forward trunnion spacer assembly, and a one-time inspection of the forward trunnion bolt on the left and right main landing gear (MLG) to detect discrepancies; and repair, if necessary.

As published, that AD contained four erroneous references to incorrect paragraphs. Paragraph (a) of the final rule states ''For airplanes listed in McDonnell Douglas Service Bulletin MD11–32–074, dated December 15, 1997: Except as provided by paragraphs (c) and (d) of this AD * * *'' However, the exception referenced in that paragraph should have been only to paragraph (c) because, unlike paragraphs (a) and (c) of the final rule, paragraph (d) applies to certain McDonnell Douglas Model DC–10–30, DC–10, –40, and KC–10(A) military series airplanes, not to Model MD–11 series airplanes.

Paragraph (b) of the final rule states ''For airplanes listed in McDonnell Douglas Service Bulletin DC10–32–248, dated December 17, 1997: Except as provided by paragraph (e) of this AD * * *'' However, the exception referenced in that paragraph also should have included paragraph (d) because, like paragraph (b) of the final rule, paragraph (d) applies to certain McDonnell Douglas Model DC–10–30, DC–10, –40, and KC–10(A) military series airplanes.

The last sentence in paragraphs (d) and (e) of the final rule states ''* * * accomplish the requirements specified in paragraph (a) of this AD.'' Paragraph (d) of the final rule applies to certain McDonnell Douglas Model DC–10–30, DC–10–40, and KC–10A (military) series airplanes, and paragraph (e) applies to certain McDonnell Douglas Model DC–10–10 and DC–10–15 series airplanes. However, those paragraphs require accomplishment of the requirements specified in paragraph (a) of the final rule, which applies to certain McDonnell Douglas Model MD–11 series airplanes. The correct reference should have been to paragraph (b).

Since no other part of the regulatory information has been changed, the final rule is not being republished.

The effective date of this AD remains April 16, 1999.

§ 39.13 [Corrected]

On page 12251, in the third column, paragraph (a) of AD 99–06–08 is corrected to read as follows:

* * * * *

(a) For airplanes listed in McDonnell Douglas Service Bulletin MD11–32–074, dated December 15, 1997: Except as provided by paragraph (c) of this AD, within 24 months after the effective date of this AD, perform a one-time visual inspection of the lubrication holes on the forward trunnion spacer assembly on the MLG for blockage by opposing bushings, and perform a one-time visual inspection of the forward trunnion bolt on the left and right MLG for chrome flaking, galling, and corrosion in the grooves; in accordance with the service bulletin.

* * * * *

On page 12252, in the first column, paragraph (b) of AD 99–06–08 is corrected to read as follows:

* * * * *

(b) For airplanes listed in McDonnell Douglas Service Bulletin DC10–32–248, dated December 17, 1997: Except as provided by paragraphs (d) and (e) of this AD, within 24 months after the effective date of this AD, perform a one-time visual inspection of the lubrication holes on the forward trunnion spacer assembly on the MLG for blockage by opposing bushings, and perform a one-time visual inspection of the forward trunnion bolt on the left and right MLG for chrome flaking, galling, and corrosion in the grooves; in accordance with the service bulletin.

* * * * *

On page 12252, in the second column, paragraph (d) of AD 99–06–08 is corrected to read as follows:

* * * * *

(d) For Model DC–10–30, DC–10–40, and KC–10A (military) series airplanes on which the requirements specified in either paragraph (c)(1)(i) or (c)(2)(ii) of AD 96–03–05, amendment 39–9502, have been accomplished: Within 48 months after the effective date of this AD, accomplish the requirements specified in paragraph (b) of this AD.

* * * * *

On page 12252, in the second column, paragraph (e) of AD 99–06–08 is corrected to read as follows:

* * * * *

(e) For Model DC–10–10 and DC–10–15 series airplanes, on which the requirements specified in paragraph (a)(1)(i), (a)(2)(ii), (b)(2)(i), or (b)(2)(ii) of AD 96–16–01, amendment 39–9701, have been accomplished: Within 48 months after the effective date of this AD, accomplish the requirements specified in paragraph (b) of this AD.

* * * * *

Issued in Renton, Washington, on April 1, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–8688 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 1b, 343, and 385

[Docket No. RM98–13–000; Order No. 602]

Complaint Procedures

Issued March 31, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is revising its regulations governing complaints filed with the Commission under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act of 1978, the Interstate Commerce Act, and the Outer Continental Shelf Lands Act. The Final Rule is designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

In order to organize the complaint procedures so that all complaints are handled in a timely and fair manner, the Commission is revising Rule 206 of its Rules of Practice and Procedure. Among other things, the Commission is requiring that complaints meet certain informational requirements, requiring answers to be filed in a shorter, 20-day time frame, and providing various paths for resolution of complaints, including Fast Track processing for complaints that are highly time sensitive. The Commission is also adding a new Rule 218 providing for simplified procedures for complaints where the amount in controversy is less than $100,000 and the impact on other entities is *de minimis.*

The Commission is codifying its current Enforcement Hotline procedures in Part 1b, Rules Relating to Investigations and revising its alternative dispute resolution regulations (Rules 604, 605 and 606) to conform to the changes made by the Administrative Dispute Resolution Act of 1996. Finally, the Commission is revising certain sections of Part 343, Procedural Rules Applicable to Oil Pipeline Proceedings, to conform to the changes in the Commission's complaint procedures in Part 385 of the regulations.

DATES: The regulations are effective May 10, 1999.

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

FOR FURTHER INFORMATION CONTACT: David Faerberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, (202) 208–1275.

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

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

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

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ

International, Inc. is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Commission has concluded, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804(2).

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) is revising its regulations governing complaints filed with the Commission under the Federal Power Act, the Natural Gas Act, the Natural Gas Policy Act, the Public Utility Regulatory Policies Act of 1978, the Interstate Commerce Act, and the Outer Continental Shelf Lands Act.[1] The Final Rule is designed to encourage and support consensual resolution of complaints, and to organize the complaint procedures so that all complaints are handled in a timely and fair manner.

In order to organize the complaint procedures so that all complaints are handled in a timely and fair manner, the Commission is revising Rule 206 of its Rules of Practice and Procedure.[2] Among other things, the Commission is requiring that complaints meet certain informational requirements, requiring answers to be filed in a shorter, 20-day time frame, and providing various paths for resolution of complaints, including Fast Track processing for complaints that are highly time sensitive. These changes should ensure that the Commission and all parties to a dispute have as much information as early in the complaint process as possible to evaluate their respective positions. The changes should also ensure that the process used to resolve a complaint is suited for the facts and circumstances surrounding the complaint, the harm alleged, the potential impact on competition, and the amount of expedition needed.

The Commission is adding a new Rule 218 providing for simplified procedures for complaints where the amount in controversy is less than $100,000 and the impact on other entities is de minimis.

The Commission is also taking a number of steps to support its policy of promoting consensual resolution of disputes among parties in the first instance. The recently created Dispute Resolution Service will work with all those interested in Commission activities to increase awareness and use of alternative dispute resolution (ADR) in all areas the Commission regulates. This new service will also help identify cases appropriate for ADR processes and conduct ADR processes, including convening sessions. In this Final Rule, the Commission is codifying its current Enforcement Hotline procedures in Part 1b, Rules Relating to Investigations.[3] This change will further publicize and establish the Hotline as a viable alternative to the filing of a formal complaint.

The Commission is also revising its alternative dispute resolution regulations (Rules 604, 605 and 606)[4] to conform to the changes made by the Administrative Dispute Resolution Act of 1996.[5] The ADRA of 1996 provides that the confidentiality provisions of the Act pre-empt the disclosure requirements of the Freedom of Information Act (FOIA). The ADRA of 1996 also eliminated provisions which allowed an agency to terminate the arbitration proceeding at any point prior to the issuance of an award, and to vacate or opt-out of an arbitration award within 30 days after the service of the award. By bringing existing Rules 604, 605, and 606 into compliance with the confidentiality, termination and opt-out provisions of the 1996 ADRA, the Commission will further foster an environment that promotes consensual resolution of disputes by eliminating provisions in its regulations which were seen as having a chilling effect on the use of ADR.[6]

The Commission is also revising certain sections of Part 343, Procedural Rules Applicable to Oil Pipeline Proceedings,[7] to conform to the changes in the Commission's complaint procedures in Part 385 of the regulations.

II. Background

The Commission first received requests to change its complaint procedures in filings arising out of a proceeding concerning interstate natural gas pipelines. The Pipeline Customer Coalition[8] filed a proposal for expedited procedures for the consideration and resolution of complaints filed with respect to natural gas pipeline rates, services, or practices.[9] The Interstate Natural Gas Association Of America (INGAA) filed its own proposal and comments in opposition to the Coalition's proposal.[10]

On March 30, 1998, in Docket No. PL98–4–000, the Commission held a symposium on the Commission's complaint procedures to determine (1) how well the Commission's current complaint procedures are working, (2) whether changes to the current complaint procedures are appropriate, and (3) what type of changes should be made.[11] Whereas the Coalition's and INGAA's proposals were restricted to complaints against pipelines, the purpose of the symposium was to discuss the Commission's complaint procedures on a generic basis. The Commission obtained a cross section of views from all segments of the gas, electric, and oil pipeline industries, as well as state regulatory agencies and members of the energy bar. The Commission received a number of comments following the symposium representing a broad range of interests from the natural gas pipeline, electric, and oil pipeline industries. As a result of a commitment made by representatives of various segments of the electric industry at the March 30, 1998 symposium, the Electric Industry Dispute Resolution Working Group (Electric Working Group)[12] filed

[1] In the Notice of Proposed Rulemaking (NOPR), the Commission inadvertently omitted a reference to the Outer Continental Shelf Lands Act (OCSLA) as one of the statutes under which complaints may be filed, and, therefore, affected by the proposed regulations.

[2] 18 CFR 385.206 (1998).

[3] 18 CFR Part 1b (1998).

[4] 18 CFR 385.604–606 (1998).

[5] Pub. L. 104–320, 110 Stat. 3870 (October 19, 1996).

[6] June 23, 1998 Comments of the American Arbitration Association in Docket No. PL98–4–000 at 5.

[7] 18 CFR Part 343 (1998).

[8] The Pipeline Customer Coalition consists of the American Iron and Steel Institute, the LDC Caucus of the American Gas Association, American Public Gas Association, Associated Gas Distributors, Georgia Industrial Group, Independent Petroleum Association of America, Natural Gas Supply Association, Process Gas Consumers, and United Distribution Companies.

[9] Comments and Petition of the Pipeline Customer Coalition, and Amended Petition of the Pipeline Customer Coalition for Proposed Rulemaking filed on May 31, 1996, and April 3, 1997, respectively, in Regulation of Negotiated Transportation Services of Natural Gas Pipelines, *et al.*, Docket Nos. RM96–7–000 and RM96–12–000.

[10] Comments and Petition of the Interstate Natural Gas Association of America filed on April 10, 1997, in Regulation of Negotiated Transportation Services of Natural Gas Pipelines, *et al.*, Docket Nos. RM96–7–000, RM96–12–000, and RM97–4–000.

[11] Symposium on Process and Reform: Commission Complaint Procedures, Docket No. PL98–4–000.

[12] The Electric Working Group includes representatives from American Public Power Association, Coalition for a Competitive Electric Market, Edison Electric Institute, Electric Power Supply Association, Illinois Municipal Electric Agency, National Rural Electric Cooperative Association and Transmission Access Policy Study Group, working with the assistance and support of the American Arbitration Association.

recommendations and proposed procedures for dispute resolution.[13]

On July 29, 1998, the Commission issued a notice of proposed rulemaking (NOPR) in Docket No. RM98–13–000.[14] The Commission received 57 comments on the NOPR representing all segments of the gas, electric, and oil pipeline industries.

III. Discussion

The natural gas and electric industries have undergone and will continue to undergo significant transformations as a result of changes to the Commission's regulatory policies. These industries are now operating in an environment which is increasingly driven by competitive market forces. Because of the short-term transactional nature of the electric and gas markets, and the fact that competitive changes happen quickly, timely and effective resolution of complaints has become more crucial. If the Commission is to use lighter-handed forms of regulation, it must have a complaint process that ensures that complainants will receive adequate protection and redress under the statutes administered and enforced by the Commission. Complaints enable the Commission to monitor activities in the marketplace and provide an early warning system for identifying potential problems. This Final Rule is necessary to provide assurance to the public that complaints will receive appropriate consideration and that complaints that require expedited consideration will receive it.

The revised regulations will encourage and support the resolution of disputes by the parties themselves prior to the filing of a formal complaint. If potential complaints can be resolved or the number of issues in a potential complaint can be reduced informally, the Commission then can focus its attention on the significant remaining issues raised in the formal complaints ultimately filed with the Commission.

The revised regulations organize the complaint procedures so that all complaints are handled in a timely, fair manner based upon an appropriate record. The regulations will assure that those complaints deserving of expedition receive it by recognizing that the appropriate process to be used for a particular complaint depends on many factors including the harm alleged and the facts and circumstances surrounding the complaint.

[13] Electric Industry Dispute Resolution Working Group Recommendations and Proposed Procedures for Dispute Resolution filed on June 23, 1998, in Symposium on Process and Reform: Commission Complaint Procedures, Docket No. PL98–4–000.

[14] 63 FR 41982 (Aug. 6, 1998).

The proceedings conducted over the past 12 months and the comments received in response to the Commission's NOPR have all served to emphasize the need to have in place procedures that will enable resolution without delay of disputes that will arise in the context of the rapidly moving competitive circumstances of today's federally regulated energy industries. This Final Rule must be viewed against a background of a more complex energy market where regulated companies are driven increasingly by competitive market forces. The dynamics of competitive markets and lighter-handed Commission regulation can be expected to change the nature of the complaints received. The Commission will be faced both with novel commercial problems and with requests for ''real time'' relief. These rules will allow the Commission to respond to the greater demands that will be placed upon it to expeditiously resolve disputes.

A. Informational Requirements for Complaints

The final rule revises Rule 206, set forth in section 385.206 of the Commission's regulations, to require that a complaint must satisfy certain informational requirements. A complaint must: (1) Clearly identify the action or inaction which is alleged to violate applicable statutory standards; (2) explain how the action or inaction violates applicable statutory standards; (3) set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant; (4) make a good faith effort to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction; (5) indicate the practical, operational, or nonfinancial impacts imposed as a result of the action or inaction, including, where applicable, the environmental, safety or reliability impacts of the action or inaction; (6) state whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum; (7) state the specific relief or remedy requested, including any request for stay, extension of time, or other preliminary relief, and in cases seeking other preliminary relief, a detailed explanation of why such relief is required addressing: (i) the likelihood of success on the merits; (ii) the nature and extent of the harm if preliminary relief is denied; (iii) the balance of the relevant interests, *i.e.*, the hardship to nonmovant if preliminary relief is granted contrasted with the hardship to the movant if preliminary relief is denied; and (iv) the effect, if any, of the decision on preliminary relief on the public interest; (8) include all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts, affidavits, and testimony; (9) state (i) whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal procedures were used; (ii) whether the complainant believes that alternative dispute resolution under the Commission's supervision could successfully resolve the complaint; (iii) what types of ADR procedures could be used; and (iv) any process that has been agreed on for resolving the complaint; (10) include a form of notice suitable for publication in the **Federal Register** and submit a copy of the notice on a separate 3½ inch diskette in ASCII format; and (11) explain with respect to requests for Fast Track processing pursuant to section 385.206(h), why the standard processes will not be adequate for expeditiously resolving the complaint.[15]

The Commission is adopting, as the final rule, the proposal in the NOPR with certain modifications. The NOPR had proposed to require complaints to include all documents that support the facts in the complaint. A number of commenters (Dynegy, American Public Power Association, Transmission Dependent Utility Systems) were concerned that they would not be able to meet the requirement to include all documents that support the facts in the complaint because, they asserted, in many instances relevant documents will be in the hands of the respondent. Section 385.206(b)(8) adopted in the final rule is modified from that proposed to request ''all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts, affidavits, and testimony.'' This should alleviate commenters' concerns.

The NOPR proposed to require complainants to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction of the respondent. A number of commenters (Enron Capital and Trade, American Public Power Association, Missouri Public Service Commission) were concerned that they would not be able to meet the requirement to quantify

[15] The Fast Track process is describe in section H below.

the financial impact or burden (if any) created for the complainant as a result of the action or inaction. Section 385.206(b)(4) adopted in the final rule is modified from that proposed to require a complainant to ''make a good faith effort to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction.''

The Pipeline Customer Coalition was concerned about having to reveal commercially sensitive information for the purposes of supporting a complaint. To protect such information, the Pipeline Customer Coalition proposed that (a) the complaint specifically indicate the absence of certain information that the complainant regards as commercially sensitive and (b) the complaint include a proposed protective order that could be adopted by the Commission to facilitate the disclosure of confidential factual data to the respondent and other parties to the complaint proceeding.

The Commission adopts here a procedure akin to that for oil pipelines filing applications for market power determinations where interested persons must execute an applicant-proposed protective agreement to receive the complete application. A complainant would file its complete complaint with a request for privileged treatment. The respondent and other parties would receive a redacted version of the complaint along with a complainant-proposed protective agreement. The respondent and parties would receive the privileged version of the complaint by executing the protective agreement and returning it to the complainant. Such a procedure has the advantage of enabling parties to resolve disclosure disputes through consensual agreement among themselves without the need for Commission involvement in every instance involving privileged information. The Commission could still step in if parties were unable to agree on protective conditions or expressed a need for the added assurance against disclosure that would be offered by a Commission-issued protective order. If necessary, the Commission could develop a model protective agreement akin to the model protective order developed recently by the Office of Administrative Law Judges.

Therefore, in section 385.206 adopted in the final rule, a new section (e) is added describing the privileged treatment procedures. A complainant may request privileged treatment of documents and information contained in the complaint pursuant to section 388.112 of the Commission's regulations.[16] In the event privileged treatment is requested, the complainant must file the original and three copies of its complaint with the information for which privileged treatment is sought and 11 copies of the pleading without the information for which privileged treatment is sought. The original and three copies must be clearly identified as containing information for which privileged treatment is sought. A complainant must provide a copy of its complaint without the privileged information and its proposed form of protective agreement to each entity that is to be served pursuant to section 385.206(c). An interested person must make a written request to the complainant for a copy of the complete complaint within 5 days after the filing of the complaint. The request must include an executed copy of the protective agreement. A complainant must provide a copy of the complete complaint to the requesting person within 5 days after receipt of the written request and an executed copy of the protective agreement. Any party can object to the proposed form of protective agreement.

Because of the 10 days that are provided to exchange information when the privileged treatment provisions are invoked, the Commission is providing in section 385.206(f) of the final rule that answers, interventions and comments are due 30 days after the complaint is filed when the privileged provisions are used. This will ensure that respondents will have the normal 20 days to file an answer once they have received the complete complaint.[17] In addition, section 385.206(f) provides that in the event there is an objection to the protective agreement, the Commission will establish the time when answers, interventions, and comments will be due.

Language used in the NOPR in proposed sections 385.206(b)(1) and (2) would have required a complainant to identify and explain ''why the action or inaction is unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful, or is contrary to a condition in a certificate or license, a tariff provision, or the terms of an exemption.'' This language, however, may not describe all the statutory standards that could apply in a complaint situation. The Outer Continental Shelf Lands Act provides, for example, that pipelines must transport ''without discrimination'' and must provide ''open and nondiscriminatory access.'' Accordingly, the informational requirements adopted in section 385.206(b)(1) and (2) of the final rule are modified from those proposed to require that complainants ''identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements,'' and explain ''why the action or inaction violates applicable statutory standards or regulatory requirements.'' This will avoid any confusion that might have resulted from the language in the NOPR being construed in a way as to limit when complaints could be filed.

A number of commenters (Piedmont Natural Gas, Florida Cities, Joint Consumer Advocates) requested that a final rule provide complainants with discovery rights. The Commission will not include discovery rights as part of the final rule. However, the Commission recognizes that there will be instances in which information necessary to support a complainant's allegation is not readily available because it is in the hands of the respondent. In these cases, a complainant should file all the information that it has. It should also identify as support for a request for discovery the further information that it needs that is in the hands of the respondent. The Commission will address these situations on a case by case basis.

Should there be factual issues that require record development through hearing before an ALJ, discovery would be available as an element of the usual hearing process. A complainant that suggests a hearing as its procedural path could also include discovery requests with its complaint. If a hearing is established, the ALJ would control discovery.

B. Informal Resolution

The Commission strongly encourages parties to attempt informal resolution of their disputes prior to the filing of a formal complaint. The Commission therefore proposed in the NOPR that parties be required to explain whether alternative dispute resolution was tried and, if not, why. After considering the comments the Commission adopts the proposal in the NOPR.

In addition to such existing informal dispute resolution mechanisms as those in tariff provisions and the Commission's Enforcement Hotline, the Commission currently is developing an expanded alternative dispute resolution capability as part of its internal restructuring. Having these capabilities available should facilitate the informal resolution of many disputes and save parties the time and expense associated

[16] 18 CFR 388.112 (1998).

[17] See Section E below for a discussion of the time period for answers.

with the filing and resolution of a formal complaint. Parties to a dispute therefore should have sufficient means and incentive to resolve their disputes informally. A potential complainant, however, should be given the broadest possible options in how it wishes to proceed with a complaint. The Commission, therefore, will not mandate the use of informal procedures prior to filing a formal complaint as requested by certain parties (Williams, Koch, INGAA, Mobil Pipe Line, El Paso Energy, the Utility Coalition, Energy, and NYSE).

The Commission also requested comments on what type of professional assistance the Commission might provide to facilitate informal dispute resolution. Wisconsin Distributor Group stated that the Commission should publish on a regular basis industry specific status reports on complaints. Enron Capital and Trade stated that the Commission should have a publication or web site, to provide information about a party's options in filing a complaint and how the process could work, or a procedural hotline. Indicated Shippers stated that complaints should be posted on a web site because the Commission's Records and Information Management System (RIMS) is difficult to access and can be blurred. American Public Power Association stated that the Commission should establish a division of dispute resolution. Transmission Dependent Utility Systems stated that the Commission should have prefiling conferences for complaints in which Staff meets informally with parties and renders non-binding advice. EPSA stated informal procedures will be most effective if staff plays an active role. USDA-Rural Utilities Service stated that the Commission should post on its website the names of a case officer for each docket who is available to answer questions. In their reply comments, Pipeline Customer Coalition and Indicated Shippers supported the idea of the publication of a complaint status report.

Many of these ideas will prove valuable as the Commission moves towards greater reliance on the electronic exchange of information. The Commission is currently engaging in an internal review of its information technology capabilities and is examining the issue of public access to information and electronic filing in Docket No. PL98–1–000.[18] Although the Commission will put certain basic information about a party's options in filing a complaint on the FERC Homepage, the idea of a complaint status report, as well as other electronic access issues relating to complaints, will be considered as part of the broader review of information technology capabilities. In addition, the Commission's new Dispute Resolution Service will be a resource that can be used to aid in the informal resolution of disputes before, or after, a complaint is filed. Further, the Enforcement Hotline will continue to be available to resolve informal complaints prior to a formal filing.

C. Simultaneous Service

Section 385.206(c) adopted in the final rule is modified from that proposed to read:

> Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents and affected entities in the same metropolitan area as the complainant. Simultaneous or overnight service is acceptable for respondents and affected entities outside the complainant's metropolitan area. Simultaneous service can be accomplished through electronic mail, fax, express delivery, or messenger.

The NOPR proposed to require a complainant to serve a copy of the complaint on the respondent and all others who the complainant knows will be affected simultaneously with filing at the Commission. Certain commenters (Pipeline Customer Coalition, Williams Companies, Enron Capital, Dynegy, NRECA, ProLiance, Chevron Products Co.) were concerned that service on all parties who the complainant knows will be affected is speculative. Certain commenters (CPUC, USDA-Rural Utilities Service) also requested that simultaneous service include affected regulatory agencies. Finally, INGAA requested that service should be overnight for out of town residents and the same day for in town residents. These concerns and requests are reasonable and their substance is incorporated in the final rule in section 385.206(c).

INGAA requested that the Commission should explore the possibility of electronic service. Transmission Dependent Utility Systems asserted that serving all affected customers may be burdensome and that complainants should instead provide a detailed electronic notice. Missouri PSC asserted that the respondent should post the complaint on an EBB or the internet.

As discussed above, electronic filing issues, including electronic service, are being examined in Docket No. PL98–1–000 and thus should be addressed in that proceeding. In addition, issues concerning electronic access to information are being explored as part of the Commission's internal review of its information technology capabilities.

D. Notice of the Complaint

The NOPR proposed that the Commission issue a notice of complaint within two days. Certain commenters (Pipeline Customer Coalition, AOPL, Cenex Pipeline) requested that this be codified in the regulations. The Commission will not include such a requirement in the regulations.

The date of issuance of the notice of a complaint is not crucial to a speedy resolution of a complaint proceeding because the time for filing answers, comments, and interventions is calculated based on the date the complaint is filed rather than the date of the notice. Nevertheless, the Commission intends to issue all notices promptly and expects to be able to issue most notices within two days.

A number of commenters (Enron Pipeline, Koch Gateway, El Paso Energy, Equilon Pipeline, Williams, INGAA, Duke Energy, Consumers Energy, Oil Pipeline Shipper Group, and Express Pipeline Partnership) suggested that complaints be screened for deficiencies and, if necessary, dismissed prior to a notice being issued. Pipeline Customer Coalition opposes screening, stating that respondents should be required to identify any complaint deficiencies in their answers.

The Commission agrees with the Pipeline Customer Coalition that any deficiencies in a complaint should be pointed out in the answer and the Commission can make a decision based on all the pleadings. Further, in the Commission's experience it is unlikely that a complaint would be so patently deficient as to require a summary dismissal on procedural grounds. The Commission therefore will not adopt screening for deficiencies as part of the final rule.

E. Time Period for Answers, Comments, Interventions

Section 385.206(f) adopted in the final rule is modified from that proposed to require that answers, interventions, and comments to a complaint must be filed within 20 days after the complaint is filed, or, in cases where the complainant requests privileged treatment for information in its complaint, 30 days after the complaint is filed. The NOPR proposed to require answers, interventions and comments to complaints to be filed within 10 days

[18] Public Access to Information and Electronic Filing.

after the complaint is filed. Almost all the comments maintained that the proposed 10 day period for answers, comments, and interventions is too short. Parties suggested various alternatives which ranged from 10 business days to the current 30 day answer period. In the Commission's view a shorter response period, such as 20 days, is preferable to the current 30 day answer period. Twenty days should provide respondents with a sufficient amount of time to answer a complaint while being consistent with the goal of speeding up the complaint resolution process.

Certain commenters requested that the final rule provide for replies as requested. The Commission's regulations do not provide for replies to answers, and allowing replies in all instances would unnecessarily lengthen the complaint process.

F. Revisions to Oil Pipeline Regulations

The final rule revises certain sections of Part 343, Procedural Rules Applicable to Oil Pipeline proceedings, to conform with the changes to the Commission's complaint procedures.

A number of oil pipelines maintained that no change is needed for oil pipelines and the Commission should retain the current oil pipeline regulations concerning complaints. Section 343.2(c) of the oil pipeline regulations, which was adopted in response to the Energy Policy Act of 1992, provides specific substantive standards for filing complaints concerning both rate and non-rate matters. For rates established under section 342.3 (indexing), a complaint must allege reasonable grounds for asserting that the rate violates the applicable ceiling level, or that the rate increase is so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable, or that the rate decrease is so substantially less than the actual cost decrease incurred by the carrier that the rate is unjust and unreasonable.

For rates established under section 342.4(c) (other rate changing methodologies), a complaint ''must allege reasonable grounds for asserting that the rate is so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable.'' For non-rate matters, a complaint ''must allege reasonable grounds for asserting that the operations or practices violate a provision of the Interstate Commerce Act, or of the Commission's regulations.'' Section 343.4 requires a response to a complaint within 30 days after the complaint is filed. Finally, section 343.5 provides that the Commission ''may require parties to enter into good faith negotiations to settle oil pipeline rate matters.

The Association of Oil Pipelines (AOPL) stated that the Commission adopted oil pipeline specific complaint regulations only four years ago. AOPL submitted that these regulations work for the oil pipeline industry. AOPL stated that oil pipelines are not going through the transitions facing the electric and natural gas industries and there is no reason to disrupt a procedure that works merely for the convenience of having one procedure that applies to all industries.

The final rule requires complaints concerning oil pipeline non-rate matters to comply with the changes to the Commission complaint procedures. Complaints concerning rates, however, are not subject to all the changes. While non-rate complaints are subject to the new substantive informational requirements adopted in section 385.206(b), rate complaints would be subject to the existing section 343.2(c) substantive rate requirements. While non-rate complaints would have to ''identify the action or inaction which is alleged to violate applicable statutory standards or regulatory requirements'' and ''explain how the action or inaction violates applicable statutory standards or regulatory requirements,'' rate complaints instead would have to meet the section 343.2(c) requirements. Therefore, a sentence will be added to sections 343.2(c)(1) and (2) indicating that, in addition to meeting the requirements of the section, a complaint must also comply with the requirements of section 385.206, except sections 385.206(b)(1) and (2). In all other respects both rate and non-rate complaints would be treated the same. The remainder of the informational requirements adopted here in section 385.206(b) and the other procedural changes discussed throughout this Final Rule thus would be applied to all oil pipeline rate complaints. This will ensure the consistency of the complaint procedures for all industries regulated by the Commission, while preserving the rate complaint standards adopted as an integral part of the package of ratemaking changes enacted in response to the Energy Policy Act of 1992.

G. Content of Answers

Section 385.213 adopted in the final rule is modified from that proposed to require that answers include ''all documents that support the facts in the answer in possession of, or otherwise attainable by, the respondent, including, but not limited to, contracts, affidavits, and testimony.'' This is parallel to the change made to the informational requirements for complaints. The NOPR proposed to revise Rule 213 to require that answers to complaints must include all documents that support the facts in the answer, including, but not limited to contracts, affidavits, and testimony.

The Commission rejects commenters' requests that the answer only admit or deny wrongdoing and not include documents. One of the purposes of revising the complaint procedures is to ensure that as much information as possible is available to the Commission and the parties to the proceeding as early as possible. An answer which simply admits or denies facts without any more would prolong the proceeding by requiring the Commission or other parties to request further information by other means.

In addition, the final rule is adopting for answers the same confidentiality provisions as those adopted for complaints as discussed in section A above. Thus, a respondent would file its complete answer with a request for privileged treatment pursuant to section 388.112 of the Commission's regulations. The complainant and other parties would receive a redacted version of the complaint along with a respondent-proposed protective agreement. The complainant and parties would receive the privileged version of the answer by executing the protective agreement and returning it to the respondent.

Section 385.213 adopted in the Final Rule is modified from that proposed to require the respondent to describe the formal or consensual process it proposes for resolving the complaint. This requirement was discussed in the NOPR but was not included in the proposed regulations.

In the NOPR, the Commission stated that, to the extent that a respondent does not comply with Rule 213, the Commission will consider granting the relief requested by the complainant based upon the pleadings alone. The Commission further stated that respondents filing what is in essence a general denial would do so at their own peril. Williams Companies contended that relief should not be granted by default. The Commission's discussion in the NOPR with respect to answers was not a new proposal. Rather, the Commission was only reiterating the procedure in section 385.213(c)(3) of its existing regulations, which provides for summary dispositions, pursuant to section 385.217, of answers that do not satisfy certain requirements.

H. Complaint Resolution Paths

Section 385.206(g) adopted in the final rule describes a number of procedural options that the Commission may use to resolve issues raised in complaints. These complaint resolution paths are (1) alternative dispute resolution, (2) decision on the pleadings by the Commission, and (3) hearing before an ALJ. Where a highly credible claim for relief is presented, and a persuasive showing is made that standard complaint resolution processing may not provide timely relief as quickly as circumstances may demand, the Commission will put the complaint on a Fast Track, to provide for expedited action by the Commission or an ALJ in a matter of weeks. The Fast Track process is described in section 385.206(h) of the regulations adopted by the final rule. Preliminary relief pending a resolution of the complaint by either the Commission or an ALJ may be requested. A ruling on preliminary relief by an ALJ would be appealable to the Commission. Such an appeal is provided for in section 385.206(g)(2) adopted in the final rule. It is not the same as an interlocutory appeal that would be filed pursuant to section 385.715 of the Commission's regulations.

The Commission in the NOPR did not propose to establish overall time limits within which complaints must be resolved. It did, however, describe target time frames that would allow a resolution of a complaint as expeditiously as possible given the issues, parties, circumstances, and the type of procedure used. A number of commenters (Pipeline Customer Coalition, Fertilizer Institute, NGSA, American Public Power Association, Electric Power Supply Association, USDA-Rural Utilities Service) requested that the Commission codify deadlines for actions in the proposed regulations. Other commenters (INGAA, El Paso Energy, Duke Energy) asserted that target dates, not strict deadlines, are appropriate.

The Commission intends to resolve complaints as quickly as possible but does not consider it necessary to codify deadlines in its regulations. Specific targets for action, however, will provide guidelines that may help meet an accelerated procedural agenda. The Commission, therefore, will adopt the target time frames discussed in the NOPR and below. At the same time, having target, rather than required, time frames will allow the Commission the flexibility to adjust when necessary to particular complicated issues and unforeseen circumstances.

(i) Alternative Dispute Resolution

Section 385.206(b)(9) of the final rule requires that a complainant state what types of ADR procedures could be used to resolve the complaint or describe any process that has been agreed on for resolving the complaint. Section 385.213(c)(4) of the final rule requires that the respondent in its answer describe the formal or consensual process it proposes for resolving the complaint. If there is agreement among the parties that a specific ADR procedure should be used, the Commission would simply assign the case to ADR. If there are competing proposals for the use of ADR, the Commission could attempt to obtain agreement from the affected parties for the use of one of the ADR proposals. If no agreement concerning the use of ADR can be reached, the complaint will be assigned to a settlement judge pursuant to section 385.603 of the Commission's regulations or resolved using one of the other complaint resolution paths.

Since ADR is a voluntary process, the time period in which a decision can be rendered is largely in the control of the affected parties. The Commission, however, would treat ADR resolution like uncontested settlements, and would therefore expect to issue any subsequent orders no later than 45 days after the ADR resolution is rendered.

(ii) Commission Decision on the Pleadings

Many complaints can be decided by the Commission based on the pleadings alone. These types of cases usually involve discrete issues that do not require development of a record before an ALJ.

The complaint would be assigned for consideration as soon as an answer is filed and a decision by the Commission would expect to issue within 60–90 days later. In some instances there might be a need to clarify the parties' understanding of facts at issue, but this could be accomplished through Staff data requests without affecting the overall time for resolving the complaint. The total time within which a Commission decision could be expected thus would be 110 days after a complaint is filed.

(iii) Hearing Before an ALJ

Complaints not set for ADR consideration and not appropriate for consideration on the pleadings alone would be set for hearing before an ALJ for development of a factual record. When a complaint is set for hearing before an ALJ, the objective will be for the ALJ to render an initial decision no later than 60 days after the case is set for hearing. Briefs on exceptions to an initial decision then would be due, under the Commission's rules, 30 days after the initial decision, and briefs opposing exceptions, 20 days thereafter. The Commission would expect to issue an order on the exceptions no later than 90 days after their filing. Thus, the total time for resolving these cases would be no more than 220 days from the filing of the complaint. In most instances it should be possible for an initial decision to be issued within 60 days because the issues raised in complaints are often narrow or discrete questions, and not the kind of wide range issues presented in general rate cases. However, because these are target timeframes, the ALJ will retain discretion to issue an initial decision in less or more time, taking into account the complexity of the case, the number of issues, or other factors.

A number of commenters (Enron, Enron Capital and Trade, Williams, Koch, INGAA, Entergy, Southern Companies, and Duke Energy) requested that complaints about changes to rates or tariffs be excluded from the proposed procedures. No category of complaint should be excluded from the proposed procedures. The Commission recognizes, however, that there will be complaint cases that might not lend themselves to an initial decision within 60 days. In such cases, involving large numbers of parties, more complex issues, or difficult circumstances, the Presiding ALJ could adjust the time frames as necessary to ensure development of a complete record. This should alleviate the commenters' concerns.

(iv) Fast Track Processing

In instances involving disputes that require relief more quickly than the usual target timeframes, the Commission will employ Fast Track processing as a complement to its standard complaint resolution paths. The Fast Track process is described in section 385.206(h) of the regulations adopted by the final rule. The Fast Track will be available when a complainant requests it and presents a highly credible claim and persuasive showing that the standard processes will not be capable of resolving the complaint promptly enough to provide meaningful relief. An example might be where a shipper seeks access to a pipeline under the Natural Gas Act, Natural Gas Policy Act or Outer Continental Shelf Lands Act, alleging that the pipeline has unjustifiably withheld service causing irreparable

harm. Another example might be where a transmission service provider allegedly is blocking a customer's access to disputed transmission capacity, essentially preventing a power purchase from an alternate supplier and causing irreparable harm. A complainant requesting Fast Track processing will be required to provide a satisfactory explanation concerning whether ADR has been pursued prior to filing the complaint.

Under Fast Track processing, there would be an immediate (same or next day) screening of a complaint alleging a need for accelerated action to ensure that the complaint warrants accelerated processing. If warranted, the answer period could be shortened to only several days. After the respondent filed its answer, a further screening would decide whether to assign the complaint for Fast Track processing. If the complaint failed to meet the criteria for Fast Track processing, the complaint would be processed under one of the standard complaint resolution paths.

Complaints found to require the Fast Track processing would be assigned for consideration expeditiously. The Commission expects to issue a procedural decision to institute a hearing, establish ADR or settlement procedures, if necessary and appropriate, within two or three days after receiving answers to the complaint. The Fast Track process, which is not appropriate for all complaints, seeks to provide all interested parties with prompt resolution of time sensitive complaints. Since this process is innovative and largely untested, the Commission may examine its results in a year and may consider appropriate changes or improvements to the process. Those that require record development would be assigned to an ALJ for a prompt hearing to receive oral testimony. Upon completing the hearing, the ALJ would issue an initial decision either in writing or by reading it into the record. An initial decision on a complaint assigned to Fast Track processing could be expected in significantly less time than the 60 days generally contemplated for complaints not directed to the Fast Track process. Hearing procedures may be compressed into only a few days if the circumstances warrant. Cases not presenting questions for which record development would be necessary would be assigned directly to the Commission for resolution based on the pleadings. It is expected that the Commission could issue an order on the merits within 20 days after the answer is filed.

Rulings on requests for preliminary relief also can be considered under the Fast Track process. Relief could be granted either by an ALJ, where the case has been set for hearing, or by the Commission, where the case has not been set for hearing.

Fast Track processing will be employed in only limited circumstances because of the extraordinarily compressed time schedule that would place a heavy burden on all parties to the proceeding. The Commission strongly encourages potential complainants to seek Fast Track processing sparingly and only in the most unusual cases that demand such accelerated treatment. A misuse of Fast Track processing could ultimately tax the Commission's limited resources and jeopardize the availability of the Fast Track procedures. Any continuing pattern of misuse by a particular party would also ultimately undermine that party's credibility when future requests for Fast Track processing are requested.

(v) Preliminary Relief

Any complaint can include a request for preliminary relief pending a final merits decision on the complaint itself. If the complaint is assigned for hearing, the ALJ will rule on the preliminary relief; the Commission will rule on preliminary relief requested as part of a complaint being considered based on the pleadings. Requests for preliminary relief would be acted on while the Commission or an ALJ is also considering the merits of the complaint. If the complaint has been designated for Fast Track processing, a ruling on preliminary relief would be almost immediate.

Where an ALJ acts on a request for preliminary relief, an appeal to the Commission will lie and may be filed within 7 days of the ALJ's decision. The Commission will issue a decision on the appeal promptly. Section 385.206(g) of the final rule has been revised from that proposed to provide for appeals of an ALJ's decision on preliminary relief. Decisions by the Commission on requests for preliminary relief would be subject to the Commission's rules on rehearing.

Complainants could request preliminary relief in the form of a stay or extension of time, or affirmative action. The standard for granting extensions of time would be the good cause showing, found in section 385.2008 of the Commission's regulations.[19] The standard applicable to requests for stay would be that set forth in section 705 of the Administrative Procedure Act, 5 U.S.C. 705 (1988), *i.e.*, the stay will be granted if ''justice so requires.'' The standard for granting affirmative preliminary relief would be that employed by the courts for such relief, namely, the four part test described in the NOPR—(1) likelihood of success on the merits; (2) whether irreparable injury to the complainant will occur if the relief is not granted; (3) whether the injury outweighs harm to the respondent or other parties if the relief is granted; and (4) other public interest considerations.[20]

I. Simplified Procedures for Small Controversies

The Commission currently has in place, and is codifying in this Final Rule, Enforcement Hotline procedures. The Enforcement Hotline is a resource particularly well suited for resolving disputes over small amounts of money or seeking limited forms of relief. It provides a forum for the Hotline staff through discussion and negotiation to resolve disagreements brought informally to its attention. Many small controversies have been concluded successfully through the Hotline without the necessity of formal proceedings before the Commission, thus saving the disputing parties much time, effort, and money. The Commission, therefore, encourages parties with limited complaints to seek relief in the first instance through the Enforcement Hotline. The Commission also recognizes, however, that there will be instances where the Hotline staff has not been able to bring about a resolution of a dispute brought to it. For these cases the final rule is adopting a procedure for complaints involving small controversies that will allow them to be resolved more simply and expeditiously than more complicated matters. This procedure will be codified in new section 385.218. Although this procedure will be available to all complainants regardless of size, it will primarily benefit small customers who would typically have small amounts in dispute and who may not have the financial resources available to pursue a formal complaint under the regulations adopted here. A lack of financial resources should not be an impediment to injured parties seeking relief before this Commission.

The adopted procedure is based, in part, on the recommendations of the American Public Gas Association (APGA). The procedure will be available if the amount in controversy is less than $100,000 and the impact on other entities is de minimis. The procedure will be available to all customers, not

[19] 18 CFR 385.2008 (1998).

[20] *See* Virginia Petroleum Jobbers Ass'n. v. FPC, 259 F.2d 921, 925 (D.C. Cir. 1958).

just small customers. This answers the concerns of Enron Capital and Trade, Indicated Shippers, NGSA, EEI, and CSW Operating Companies who asserted that a small claims procedure should apply to small amounts as well as small customers. In the Commission's view, the $100,000 ceiling and the requirement of a de minimis impact on other customers should alleviate parties' concerns that a complex complaint could be filed under this procedure.

Complainants under the simplified procedure will be required to submit a short form complaint which states (1) the name of the complainant, (2) the name of the respondent, (3) a description of the relationship to the respondent, for example, firm shipper, competitor, etc., (4) the amount in controversy, (5) why the complaint will have a de minimis impact on other entities, (6) the facts and circumstances surrounding the complaint, including the legal or regulatory obligation breached by the respondent, and (7) the requested relief. The complainant is encouraged, but not required, to attach any relevant documents to its complaint.

The complainant will be required to simultaneously serve the complaint on the respondent and any other entity referenced in the complaint. A notice of the complaint will be issued promptly, usually within 2 days. The Commission is not codifying the notice period in the final rule because, as with regular complaints, the date of issuance of the notice of a complaint is not crucial to a speedy resolution of a complaint proceeding because the time for filing answers, comments, and interventions is calculated based on the date the complaint is filed rather than the date of the notice.

Answers, interventions and comments will be required within 10 days of the filing of the complaint. In cases where privileged treatment of documents is requested by the complainant, answers, interventions, and comments will be due within 20 days after the complaint is filed. This will account for the time needed for parties to execute protective agreements and receive the privileged information. It is the same approach that is being used for regular complaints. Given the more limited nature of complaints filed under the simplified procedure, the 10 day answer period should be sufficient. An answer to a complaint will have to follow the current practice under Rule 213. A respondent is encouraged, but not required, to provide any relevant documents.

APGA recommended that the Commission or a delegated official issue an order within 30 days after the answer and an aggrieved party be able to seek rehearing within 15 days after the decision. Because of the less complex nature of complaints filed under the simplified procedure it is likely that the Commission could issue an order more expeditiously than in other types of complaint cases, perhaps within as little as 30 days after an answer is filed. Requests for rehearing will have to be filed in accordance with the relevant statute, to the extent the statute provides for rehearing, and the Commission's regulations.

APGA suggested that the order issued not be published in the official reporter and not have precedential value. The Commission will not adopt such a proposal. It is important for the Commission to have a body of precedent on which both the Commission and potential complainants under the simplified procedure could rely.

J. Revisions to ADR Regulations

The final rule revises Rules 604, 605 and 606 to conform to the 1996 ADRA by eliminating the termination and opt-out provisions, and providing that the confidentiality provisions of the 1996 ADRA pre-empt the disclosure requirements of the FOIA.

A number of commenters (Wisconsin Distributor Group, INGAA, Equilon, AOPL) assert that ADR settlements should not be subject to notice and comments. A number of other commenters (Transmission Dependent Utility Systems, Missouri PSC, Joint Consumer Advocates) support notice and comment on ADR settlements. The final rule does not revise the regulations to indicate that settlement agreements reached through ADR are not subject to the notice and comment requirements of Rule 602 unless the Commission takes affirmative action within 30 days.

The changes concerning the termination, opt-out, and confidentiality provisions are to reflect the changes contained in the 1996 Administrative Dispute Resolution Act. The Commission will require ADR settlements to be subject to notice and comment because, in many instances, settlements entered into by regulated companies can affect parties who were not part of the ADR process.

K. Codification of Hotline Procedures

To make the Enforcement Hotline easier to use, the final rule codifies the current Hotline procedures in a new Section 1b.21.

A number of parties were concerned about parties' ability to make anonymous complaints. The Commission emphasizes that the final rule is not adopting any new procedures with respect to the Enforcement Hotline, but has simply codified its longstanding practice.

The Commission declines to adopt the proposal offered by several commenters that the Commission should separate Hotline functions from prosecutorial functions of the Enforcement Section. Parties respond to Hotline calls promptly because they know that Enforcement Staff may institute investigations if valid complaints cannot be resolved informally.

With respect to the issue of the availability of the Hotline to West Coast parties, calls after business hours can be handled by voice mail and the Hotline Staff will return the call the next business day. The Commission has also established an Enforcement Hotline e-mail address. It is hotline@ferc.fed.us.

L. Miscellaneous

EEI and the Utility Coalition stated that complaints should be able to be filed by both public utilities and their customers. NRECA stated that the Commission should not allow jurisdictional entities to file complaints against nonjurisdictional entities. Transmission Dependent Utility Systems stated that transmission customers should not be the subject of complaints.

In their reply comments, APPA and Transmission Access Policy Study Group asserted that the regulations proposed in the NOPR should not be expanded to provide for FERC jurisdiction over complaints seeking enforcement of filed rates against nonjurisdictional customers.

The Commission is not persuaded of the necessity of revising its regulations in this regard at this time. The circumstances under which the Commission has in the past and would in the future be requested to address nonjurisdictional customer conduct would involve situations such as a customer's failure to comply with the terms of public utility's tariff, rate schedules, or contracts. The Commission believes that the current approach taken by the regulations, which allows the Commission to address such matters on a case by case basis, does not need revision.

IV. Information Collection Statement

The following collection of information contained in this final rule is being submitted to the Office of Management and Budget (OMB) for review under Section 3507(d) of the

Paperwork Reduction Act of 1995.[21] FERC identifies the information provided under 18 CFR Part 385 as FERC–600. FERC–600 consolidates certain existing information collection requirements from the various FERC program offices into one information collection number and accounts for the incremental burden placed on persons filing under the proposed regulations.

The Commission in the NOPR solicited comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the burden on persons filing under the revised complaint procedures, including the use of automated information techniques. No comments were received.

Estimated Annual Burden: The burden estimates for complying with this final rule are as follows:

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–600	75	75	14	1,050

Total Annual Hours for Collection (Reporting + record keeping, if appropriate) = 1,050.

Based on the Commission's experience with complaints, it is estimated that about 75 filings per year will be made over the next three years at a burden of 14 hours per filing, for a total annual burden of 1,050 hours under the proposed regulations. The Commission's expectation is that receiving more information in the complaint will lessen the subsequent burden on parties and will shorten the time for resolving a complaint. There is no annual reporting burden under the current regulations.

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule.[22] Accordingly, pursuant to OMB regulations, the Commission provided notice of its information collection to OMB. OMB did not comment or take any action on the NOPR. Therefore, an OMB control number was not given for this collection of information.

Title: FERC–600, Rules of Practice and Procedure

Action: Proposed Data Collection.

OMB Control No. 1902–_____

The respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for profit, including small businesses.

Frequency of Responses: Infrequent.

Necessity of Information: The final rule requires persons filing complaints and answers to complaints with the Commission to satisfy certain informational requirements, and to provide supporting documentation for the allegations in a complaint and answer to a complaint. The information will allow the Commission to properly evaluate a complaint and resolve it in a timely manner.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the information collection requirements. The Commission's Offices of General Counsel, Pipeline Regulation, Electric Power Regulation, and Hydropower Licensing, will use the data to make decisions with respect to the merits of a complaint. This internal review determination involves among, other things, an examination of adequacy of design, cost, reliability, redundancy of the information to be required. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the interstate natural gas pipeline, oil pipeline, electric and hydroelectric industries.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail: mike.miller@ferc.fed.us].

Questions concerning the collection of information and the associated burden estimate should be sent to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC, 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285.

V. Environmental Analysis

The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[23] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[24] The actions proposed to be taken here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering, analysis, and dissemination, and for sales, exchange, and transportation of natural gas that requires no construction of facilities.[25] Therefore, an environmental assessment is unnecessary and has not been prepared in this rulemaking.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions and analyses of proposed rules that will have a significant economic impact on a substantial number of small entities.[26] The Commission is not required to make such analyses if a rule would not have such an effect.[27]

The Commission does not believe that this rule would have such an impact on small entities. The majority of complaints filed with the Commission have been by companies who do not meet the RFA's definition of a small entity whether or not they are under the Commission's jurisdiction.[28] Further, the final rule will speed up the complaint process in general and in particular for those cases where small business entities have been the subject

[21] 44 U.S.C. 3507(d) (Supp. I 1995).

[22] 5 CFR 1320.11

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

[24] 18 CFR 380.4.

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

[26] 5 U.S.C. 601–612 (1994).

[27] 5 U.S.C. 605(b)(1994).

[28] 5 U.S.C. 601(3)(1994).

of an alleged detriment. This proposed rule will be beneficial to small entities. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Effective Date And Congressional Notification

The regulations are effective May 10, 1999. The Small Business Regulatory Enforcement Fairness Act of 1996 requires agencies to report to Congress on the promulgation of certain final rules prior to their effective dates.[29] That reporting requirement applies to this Final Rule. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a major rule as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects

18 CFR Part 1b

Investigations.

18 CFR Part 343

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric power, Penalties, Pipelines, Reporting and recordkeeping requirements.

By the Commission.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission amends Parts 1b, 343, and 385, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 1b—RULES RELATING TO INVESTIGATIONS

1. The authority citation for Part 1b is amended to read as follows:

Authority: 15 U.S.C. 717 *et seq.*; 16 U.S.C. 792 *et seq.*; 49 U.S.C. 60502; 49 A.P. U.S.C. 1–85; 42 U.S.C. 7101–7352; E.O. 12009, 42 FR 46267.

2. In section 1b.1, new paragraph (d) is added to read as follows:

§ 1b.1 Definition.

* * * * *

(d) *Enforcement Hotline* is a forum in which to address quickly and informally any matter within the Commission's jurisdiction concerning natural gas pipelines, oil pipelines, electric utilities and hydroelectric projects.

[29] 5 U.S.C. 801 (Supp. III 1997).

3. In Part 1b, new section 1b.21 is added to read as follows:

§ 1b.21 Enforcement hotline.

(a) The Hotline Staff may provide information to the public and give informal staff opinions. The opinions given are not binding on the General Counsel or the Commission.

(b) Any person may seek information or the informal resolution of a dispute by calling or writing to the Hotline at the telephone number and address in paragraph (f) of this section. The Hotline Staff will informally seek information from the caller and any respondent, as appropriate. The Hotline Staff will attempt to resolve disputes without litigation or other formal proceedings. The Hotline Staff may not resolve matters that are before the Commission in docketed proceedings.

(c) All information and documents obtained through the Hotline Staff shall be treated as non-public by the Commission and its staff, consistent with the provisions of section 1b.9 of this part.

(d) Calls to the Hotline may be made anonymously.

(e) Any person who contacts the Hotline is not precluded from filing a formal action with the Commission if discussions assisted by Hotline Staff are unsuccessful at resolving the matter. A caller may terminate use of the Hotline procedure at any time.

(f) The Hotline may be reached by calling (202) 208–1390 or toll free (877) 303–4340, by e-mail at hotline@ferc.fed.us, or writing to: Enforcement Hotline, Federal Energy Regulatory Commission, 888 First Street, N.E. Washington, D.C. 20426.

PART 343—PROCEDURAL RULES APPLICABLE TO OIL PIPELINE PROCEEDINGS

1. The authority citation for Part 343 continues to read as follows:

Authority: 5 U.S.C. 571–583; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In section 343.2 paragraph (c) is revised to read as follows:

§ 343.2 Requirements for filing interventions, protests and complaints.

* * * * *

(c) *Other requirements for filing protests or complaints*—(1) *Rates established under § 342.3 of this chapter.* A protest or complaint filed against a rate proposed or established pursuant to § 342.3 of this chapter must allege reasonable grounds for asserting that the rate violates the applicable ceiling level, or that the rate increase is so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable, or that the rate decrease is so substantially less than the actual cost decrease incurred by the carrier that the rate is unjust and unreasonable. In addition to meeting the requirements of the section, a complaint must also comply with all the requirements of § 385.206, except § 385.206(b)(1) and (2).

(2) *Rates established under § 342.4(c) of this chapter.* A protest or complaint filed against a rate proposed or established under § 342.4(c) of this chapter must allege reasonable grounds for asserting that the rate is so substantially in excess of the actual cost increases incurred by the carrier that the rate is unjust and unreasonable. In addition to meeting the requirements of the section, a complaint must also comply with all the requirements of § 385.206, except § 385.206(b)(1) and (2).

(3) *Non-rate matters.* A protest or complaint filed against a carrier's operations or practices, other than rates, must allege reasonable grounds for asserting that the operations or practices violate a provision of the Interstate Commerce Act, or of the Commission's regulations. In addition to meeting the requirements of this section, a complaint must also comply with the requirements of § 385.206.

3. In section 343.4 paragraph (a) is revised to read as follows:

§ 343.4 Procedures on complaints.

(a) *Responses.* The carrier must file an answer to a complaint filed pursuant to section 13(1) of the Interstate Commerce Act within 20 days after the filing of the complaint in accordance with Rule 206.

* * * * *

PART 385—RULES OF PRACTICE AND PROCEDURE

1. The authority citation for Part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

2. In section 385.206, existing paragraph (b) is redesignated paragraph (f) and is revised, existing paragraph (c) is redesignated as paragraph (j), and new paragraphs (b), (c), (d), (e), (g), (h) and (i) are added to read as follows:

§ 385.206 Complaints (Rule 206).

* * * * *

(b) *Contents.* A complaint must:

(1) Clearly identify the action or inaction which is alleged to violate

applicable statutory standards or regulatory requirements;

(2) Explain how the action or inaction violates applicable statutory standards or regulatory requirements;

(3) Set forth the business, commercial, economic or other issues presented by the action or inaction as such relate to or affect the complainant;

(4) Make a good faith effort to quantify the financial impact or burden (if any) created for the complainant as a result of the action or inaction;

(5) Indicate the practical, operational, or other nonfinancial impacts imposed as a result of the action or inaction, including, where applicable, the environmental, safety or reliability impacts of the action or inaction;

(6) State whether the issues presented are pending in an existing Commission proceeding or a proceeding in any other forum in which the complainant is a party, and if so, provide an explanation why timely resolution cannot be achieved in that forum;

(7) State the specific relief or remedy requested, including any request for stay, extension of time, or other preliminary relief , and in cases seeking other preliminary relief, a detailed explanation of why such relief is required addressing:

(i) The likelihood of success on the merits;

(ii) The nature and extent of the harm if preliminary relief is denied;

(iii) The balance of the relevant interests, *i.e.,* the hardship to nonmovant if preliminary relief is granted contrasted with the hardship to the movant if preliminary relief is denied; and

(iv) The effect, if any, of the decision on preliminary relief on the public interest;

(8) Include all documents that support the facts in the complaint in possession of, or otherwise attainable by, the complainant, including, but not limited to, contracts, affidavits, and testimony;

(9) State

(i) Whether the Enforcement Hotline, Dispute Resolution Service, tariff-based dispute resolution mechanisms, or other informal procedures were used;

(ii) Whether the complainant believes that alternative dispute resolution (ADR) under the Commission's supervision could successfully resolve the complaint;

(iii) What types of ADR procedures could be used; and

(iv) Any process that has been agreed on for resolving the complaint.

(10) Include a form of notice suitable for publication in the **Federal Register** and submit a copy of the notice on a separate 3½ inch diskette in ASCII format;

(11) Explain with respect to requests for Fast Track processing pursuant to section 385.206(h), why the standard processes will not be adequate for expeditiously resolving the complaint.

(c) *Service.* Any person filing a complaint must serve a copy of the complaint on the respondent, affected regulatory agencies, and others the complainant reasonably knows may be expected to be affected by the complaint. Service must be simultaneous with filing at the Commission for respondents and affected entities in the same metropolitan area as the complainant. Simultaneous or overnight service is permissible for respondents and affected entities outside the complainant's metropolitan area. Simultaneous service can be accomplished by electronic mail, facsimile, express delivery, or messenger.

(d) *Notice.* Public notice of the complaint will be issued by the Commission.

(e) *Privileged Treatment.* (1) If a complainant seeks privileged treatment for any documents submitted with the complaint, the complainant must submit, with its complaint, a request for privileged treatment of documents and information under section 388.112 of this chapter and a proposed form of protective agreement. In the event the complainant requests privileged treatment under section 388.112 of this chapter, it must file the original and three copies of its complaint with the information for which privileged treatment is sought and 11 copies of the pleading without the information for which privileged treatment is sought. The original and three copies must be clearly identified as containing information for which privileged treatment is sought.

(2) A complainant must provide a copy of its complaint without the privileged information and its proposed form of protective agreement to each entity that is to be served pursuant to section 385.206(c).

(3) An interested person must make a written request to the complainant for a copy of the complete complaint within 5 days after the filing of the complaint. The request must include an executed copy of the protective agreement. Any person may file an objection to the proposed form of protective agreement.

(4) A complainant must provide a copy of the complete complaint to the requesting person within 5 days after receipt of the written request that is accompanied by an executed copy of the protective agreement.

(f) *Answers, interventions and comments.* Unless otherwise ordered by the Commission, answers, interventions, and comments to a complaint must be filed within 20 days after the complaint is filed. In cases where the complainant requests privileged treatment for information in its complaint, answers, interventions, and comments are due within 30 days after the complaint is filed. In the event there is an objection to the protective agreement, the Commission will establish when answers will be due.

(g) *Complaint Resolution Paths.* (1) One of the following procedures may be used to resolve complaints:

(i) The Commission may assign a case to be resolved through alternative dispute resolution procedures in accordance with sections 385.604–385.606, in cases where the affected parties consent, or the Commission may assign the case to a settlement judge in accordance with section 385.603;

(ii) The Commission may issue an order on the merits based upon the pleadings;

(iii) The Commission may establish a hearing before an ALJ;

(2) The Commission, or an ALJ, may act on requests for preliminary relief. In cases where the ALJ rules on a request for preliminary relief, an appeal to the Commission may be filed within 7 days of the ruling.

(h) *Fast Track Processing.* (1) The Commission may resolve complaints using Fast Track procedures if the complaint requires expeditious resolution. Fast Track procedures may include expedited action on the pleadings by the Commission, expedited hearing before an ALJ, or expedited action on requests for stay, extension of time, or other preliminary relief by the Commission or an ALJ.

(2) A complainant may request Fast Track processing of a complaint by including such a request in its complaint, captioning the complaint in bold type face ''COMPLAINT REQUESTING FAST TRACK PROCESSING,'' and explaining why expedition is necessary as required by section 385.206(b)(11).

(3) Based on an assessment of the need for expedition, the period for filing answers, interventions and comments to a complaint requesting Fast Track processing may be shortened by the Commission from the time provided in section 385.206(f).

(4) After the answer is filed, the Commission will issue promptly an order specifying the procedure and any schedule to be followed.

(i) *Simplified Procedure for Small Controversies.* A simplified procedure for complaints involving small

controversies is found in section 385.218 of this subpart.

3. In section 385.213 paragraphs (c)(4) and (5) are added to read as follows:

§ 385.213 Answer (Rule 213).

* * * * *

(c) * * *

(4) An answer to a complaint must include all documents that support the facts in the answer in possession of, or otherwise attainable by, the respondent, including, but not limited to, contracts, affidavits, and testimony. An answer is also required to describe the formal or consensual process it proposes for resolving the complaint.

(5)(i) A respondent must submit with its answer any request for privileged treatment of documents and information under § 388.112 of this chapter and a proposed form of protective agreement. In the event the respondent requests privileged treatment under § 388.112 of this chapter, it must file the original and three copies of its answer with the information for which privileged treatment is sought and 11 copies of the pleading without the information for which privileged treatment is sought. The original and three copies must be clearly identified as containing information for which privileged treatment is sought.

(ii) A respondent must provide a copy of its answer without the privileged information and its proposed form of protective agreement to each entity that has been served pursuant to § 385.206 (c).

(iii) An interested person must make a written request to the respondent for a copy of the complete answer within 5 days after the filing of the answer. The request must include an executed copy of the protective agreement. Any person may file an objection to the proposed form of protective agreement.

(iv) A respondent must provide a copy of the complete answer to the requesting person within 5 days after receipt of the written request and an executed copy of the protective agreement.

* * * * *

4. New section 385.218 is added to read as follows:

§ 385.218 Simplified procedure for complaints involving small controversies (Rule 218).

(a) *Eligibility.* The procedures under this section are available to complainants if the amount in controversy is less than $100,000 and the impact on other entities is *de minimis.*

(b) *Contents.* A complaint filed under this section must contain:

(1) The name of the complainant;

(2) The name of the respondent;

(3) A description of the relationship to the respondent;

(4) The amount in controversy;

(5) A statement why the complaint will have a *de minimis* impact on other entities;

(6) The facts and circumstances surrounding the complaint, including the legal or regulatory obligation breached by the respondent; and

(7) The requested relief.

(c) *Service.* The complainant is required to simultaneously serve the complaint on the respondent and any other entity referenced in the complaint.

(d) *Notice.* Public notice of the complaint will be issued by the Commission.

(e) *Answers, Interventions and Comments.* (1) An answer to a complaint is required to conform to the requirements of § 385.213(c)(1), (2), and (3).

(2) Answers, interventions and comments must be filed within 10 days after the complaint is filed. In cases where the complainant requests privileged treatment for information in its complaint, answers, interventions, and comments must be filed within 20 days after the complaint is filed. In the event there is an objection to the protective agreement, the Commission will establish when answers, interventions, and comments are due.

(f) *Privileged Treatment.* If a complainant seeks privileged treatment for any documents submitted with the complaint, a complainant must use the procedures described in section 385.206(e). If a respondent seeks privileged treatment for any documents submitted with the answer, a respondent must use the procedures described in section 385.213(c)(5).

5. In section 385.604, paragraph (d)(3) is removed, paragraphs (d)(4), (d)(5), and (d)(6) are redesignated paragraphs (d)(3), (d)(4), and (d)(5), paragraph (g) is removed, and paragraph (d)(2) is revised to read as follows:

§ 385.604 Alternative means of dispute resolution (Rule 604).

* * * * *

(d) * * *

(2) For matters set for hearing under subpart E of this part, a proposal to use alternative means of dispute resolution must be filed with the presiding administrative law judge.

* * * * *

6. In section 385.605 paragraph (f) is removed, and paragraphs (a)(4) and (e)(2) are revised to read as follows:

§ 385.605 Arbitration (Rule 605).

(a) * * *

(4) An arbitration proceeding under this rule may be monitored as provided in Rule 604(f).

* * * * *

(e) * * *

(2) The award in an arbitration proceeding will become final 30 days after it is served on all parties.

* * * * *

6. In section 385.606 paragraph (d) is redesignated paragraph (d)(1) and paragraphs (d)(2) and (l) are added:

§ 385.606 Confidentiality in dispute resolution proceedings (Rule 606).

* * * * *

(d) * * *

(2) To qualify for the exemption established under paragraph (l) of this section, an alternative confidential procedure under this paragraph may not provide for less disclosure than confidential procedures otherwise provided under this rule.

* * * * *

(l) A dispute resolution communication that may not be disclosed under this rule shall also be exempt from disclosure under 5 U.S.C. 552(b)(3).

Note—The following appendix will not appear in the Code of Federal Regulations.

Appendix—List of Commenters

Adirondack Mountain Club
American Electric Power System
American Public Gas Association
American Public Power Association and Transmission Access Policy Study Group
American Arbitration Association
ANR Pipeline Company and Colorado Interstate Gas Company
Association of Oil Pipe Lines
Canadian Association of Petroleum Producers and Alberta Dept. of Energy
Cenex Pipeline, LLC
Chevron Products Company
Chevron Pipe Line Company
Columbia Gas Transmission Corporation and Columbia Gulf Transmission Company
Consumers Energy Company and Michigan Gas Storage Company
CSW Operating Companies
Duke Energy Companies
Dynegy Inc.
Edison Electric Institute
El Paso Energy Corporation Interstate Pipelines
Electric Power Supply Association
Enron Capital & Trade Resources Corp.
Enron Interstate Pipelines
Entergy Service, Inc.
Equilon Pipeline Company LLC
Express Pipeline Partnership
Fertilizer Institute
Florida Cities
Independent Petroleum Association of America
Indicated Shippers
Interstate Natural Gas Association of America
Joint Consumer Advocates
Keyspan Energy

Koch Gateway Pipeline Company
Lakehead Pipe Line Company, L.P.
Missouri Public Service Commission
Mobil Pipe Line Company
National Rural Electric Cooperative Association
Natural Gas Supply Association
New York State Electric & Gas Corporation
Oil Pipeline Shipper Group
Piedmont Natural Gas Company, Inc.
Pipeline Customer Coalition
ProLiance Energy, LLC
Public Utilities Commission of the State of California
Railroad Commission of Texas
Refinery Holding Company, L.P.
Southern Companies
TAPS Carriers
Transmission Dependent Utility Systems
United States Department of Agriculture—Rural Utilities Service
Utility Coalition
Williams Companies, Inc.
Wisconsin Distributor Group and Northern Distributor Group

[FR Doc. 99–8518 Filed 4–7–99; 8:45 am]
BILLING CODE 6717–01–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Part 404

[Regulations No. 4]

RIN 0960–AE03

Maximum Family Benefits in Guarantee Cases

AGENCY: Social Security Administration.
ACTION: Final rule.

SUMMARY: This final rule amends our regulations to reflect section 310 of the Social Security Independence and Program Improvements Act of 1994. Section 310 provides that the guaranteed primary insurance amount is to be used in establishing the maximum family benefit.

EFFECTIVE DATE: This final rule is effective April 8, 1999.

FOR FURTHER INFORMATION CONTACT: Bill Hilton, Social Insurance Specialist, Office of Program Benefits, Social Security Administration, 3–D–25–Operations Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, 410–965–2468 or TTY 410–966–5609. For information on eligibility, claiming benefits or coverage of earnings, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778.

SUPPLEMENTARY INFORMATION: The 1977 Amendments to the Social Security Act provided a guarantee for those receiving benefits on the Social Security record of an insured individual who received disability benefits at some earlier time, then stopped receiving disability benefits, and subsequently has become entitled to retirement or disability benefits or has died. This subsequent entitlement guarantee provides that the basic benefit amount, called the primary insurance amount, of the insured individual cannot be less than the primary insurance amount in effect in the last month of the insured individual's prior entitlement to disability benefits, increased under certain circumstances by any cost-of-living or general benefit increase since that time. This primary insurance amount guarantee is described in §§ 404.250 through 404.252 of our regulations.

The primary insurance amount guarantee of the 1977 Amendments, however, did not extend to the maximum family benefit payable on the insured individual's record, which is based on the primary insurance amount. (The maximum family benefit is a limit on the total amount of monthly benefits which may be paid for any month to an insured individual and his or her dependents or survivors.) Thus, we were computing the family maximum for subsequent entitlement using either the insured individual's eligibility year of the prior entitlement to disability or the current eligibility year. As a result, the maximum family benefit which is payable when the insured individual becomes reentitled to benefits or dies may be less than the maximum family benefit payable in the last month of the insured individual's prior entitlement to disability benefits.

Section 310 of Pub. L. 103–296, the Social Security Independence and Program Improvements Act of 1994, amended the Social Security Act so that the guaranteed primary insurance amount would be the basis for calculating the guaranteed maximum family benefit under a subsequent entitlement. The amendments made by section 310 also provide that, where the subsequent entitlement is to retirement or survivor benefits, we will determine the applicable maximum family benefit without applying the disability maximum family benefit cap described in § 404.403(d–1) of our regulations. The amendments made by section 310 apply when determining the total monthly benefits to which beneficiaries may be entitled based on the wages and self-employment income of an insured individual who, after having been previously entitled to disability insurance benefits, becomes entitled to retirement benefits, becomes reentitled to disability insurance benefits, or dies, after December 1995. Section 310 was effective for the maximum family benefit of workers who become reentitled to benefits or die (after previously having been entitled) after December 1995. We have followed this statutory amendment since it became effective. We are now amending § 404.403 of our regulations by adding paragraph (g) to reflect the changes made by section 310.

Regulatory Procedures

Justification For Final Rules

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), the Social Security Administration follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its prior notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that, under 5 U.S.C. 553(b)(B), good cause exists for dispensing with the prior notice and public comment procedures in this case. This regulation simply reflects statutory changes and does not involve the making of any discretionary policy. Therefore, opportunity for prior comment is unnecessary and we are issuing this change to our regulations as a final rule.

We also find good cause for dispensing with the 30-day delay in the effective date of a substantive rule provided for by 5 U.S.C. 553(d). As explained above, this regulation merely reflects a self-executing statutory change that has its own effective date. We believe it would be misleading and contrary to the public interest for the regulation to show a later effective date, because we must compute benefits as directed by the statute in all cases.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, it was not subject to OMB review. We have also determined that these rules meet the plain language requirement of Executive Order 12866 and the President's memorandum of June 1, 1998.

Paperwork Reduction Act

This final regulation imposes no new reporting/recordkeeping requirements subject to OMB clearance.

Regulatory Flexibility Act

We certify that this final regulation will not have a significant economic

impact on a substantial number of small entities because it affects only individuals. Therefore, a regulatory flexibility analysis as provided in the Regulatory Flexibility Act, as amended, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; and 96.004, Social Security-Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

Dated: March 30, 1999.

Kenneth S. Apfel,

Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subpart E of part 404 of chapter III of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart E—[Amended]

1. The authority citation for subpart E of part 404 continues to read as follows:

Authority: Secs. 202, 203, 204(a) and (e), 205(a) and (c), 222(b), 223(e), 224, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 403, 404(a) and (e), 405(a) and (c), 422(b), 423(e), 424a, 425, and 902(a)(5)).

2. Section 404.403 is amended by adding paragraph (g) to read as follows:

§ 404.403 Reduction where total monthly benefits exceed maximum family benefits payable.

* * * * *

(g) *Person previously entitled to disability insurance benefits.* If an insured individual who was previously entitled to disability insurance benefits becomes entitled to a ''second entitlement'' as defined in § 404.250, or dies, after 1995, and the insured individual's primary insurance amount is determined under §§ 404.251(a)(1), 404.251(b)(1), or 404.252(b), the monthly maximum during the second entitlement is determined under the following rules:

(1) If the primary insurance amount is determined under §§ 404.251(a)(1) or 404.251(b)(1), the monthly maximum equals the maximum in the last month of the insured individual's earlier entitlement to disability benefits, increased by any cost-of-living or ad hoc increases since then.

(2) If the primary insurance amount is determined under § 404.252(b), the monthly maximum equals the maximum in the last month of the insured individual's earlier entitlement to disability benefits.

(3) Notwithstanding paragraphs (g)(1) and (g)(2) of this section, if the second entitlement is due to the insured individual's retirement or death, and the monthly maximum in the last month of the insured individual's earlier entitlement to disability benefits was computed under paragraph (d–1) of this section, the monthly maximum is equal to the maximum that would have been determined for the last month of such earlier entitlement if computed without regard for paragraph (d–1) of this section.

[FR Doc. 99–8754 Filed 4–7–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 812

User Charges

AGENCY: Department of the Air Force, Defense.

ACTION: Final rule; removal.

SUMMARY: The Department of the Air Force is amending Title 32, Chapter VII of the CFR by removing Part 812, User Charges. This rule is removed as AFR 177–8, User Charges and User Charges Report, was superseded by DFAS–DER–7000.6. DFAS–DER–7000.6, User Charges, was rescinded in September 1997.

EFFECTIVE DATE: April 5, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Holly McIntire, DFAS–DE/PMLP, 6760 E. Irvington Place, Denver, CO 80230–8000, (303) 676–7613.

SUPPLEMENTARY INFORMATION:

PART 812—[REMOVED]

Accordingly, 32 CFR, Chapter VII is amended by removing part 812.

Authority: 31 U.S.C. 9701.

Carolyn A. Lunsford,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–8769 Filed 4–7–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD09–99–002]

RIN–2115–AE47

Drawbridge Operation Regulations; Duluth Ship Canal (Duluth-Superior Harbor)

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation from regulations with request for comments.

SUMMARY: The Coast Guard has authorized a temporary deviation from the current operating regulations that govern the Duluth Aerial Lift Bridge over the Duluth Ship Canal. The temporary deviation is for the purpose of evaluating a proposed revised schedule for the bridge during the peak recreational vessel traffic season. The test schedule will be in effect from June 1, 1999, through August 31, 1999.

DATES: This deviation is effective from 6 a.m. on June 3, 1999, until 10 p.m. on August 31, 1999. Comments must be received by September 30, 1999.

ADDRESSES: Comments may be mailed or delivered to: Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, OH 44199–2060 between 6:30 a.m. and 3 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Scot M. Striffler, Project Manager, at (216) 902–6084.

SUPPLEMENTARY INFORMATION: The Coast Guard received a request from the City of Duluth to reduce the number of bridge openings for recreational vessel traffic at the Duluth Aerial Lift Bridge during the peak boating season. This action was requested to relieve vehicular traffic congestion in the vicinity of the bridge and reduce wear and tear on the operating machinery. The Coast Guard arranged a meeting on September 30, 1998, with City officials, marina owners/operators, commercial marine interests, and the Coast Guard Captain of the Port to discuss operating schedule options. A schedule was devised and approved by the participants, and the Coast Guard determined that a 90-day test period would be appropriate to decide if a revised schedule would accomplish the previously stated objectives, while still providing for the reasonable needs of navigation.

The Coast Guard encourages interested persons to submit comments

either for or against the schedule. Persons submitting comments should include their name, address, identify this document (CGD09–99–002), the specific section of this temporary schedule, and the reason(s) for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½″ x 11″ unbound format suitable for copying and electronic filing. Comments should be sent to Commander (obr), Ninth Coast Guard District, 1240 East Ninth Street, Room 2019, Cleveland, Ohio, 44199–2060. Comments received by the Coast Guard will be used in determining whether a full rulemaking process should be opened for a permanent change. Comments should be received at the address above by September 30, 1999.

The test schedule will not affect any government or commercial vessels transiting the bridge. Also, the bridge will open for all vessels during periods of severe weather and for vessels in distress.

From June 3 through August 31, 1999, between the hours of 6 a.m. and 10 p.m., Monday through Sunday, the bridge will open for recreational vessels only from 3 minutes before to 3 minutes after the hour and half-hour. The bridge shall open on signal for public and/or commercial vessels during all other times.

Dated: March 18, 1999.

J.F. McGowan,

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

[FR Doc. 99–8473 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–15–M

POSTAL SERVICE

39 CFR Part 111

Delivery Confirmation Service; Partial Stay of Applicability

AGENCY: Postal Service.

ACTION: Partial stay of applicability of final rule.

SUMMARY: The Postal Service is staying the applicability of a portion of its recently published final rule on Delivery Confirmation which set forth the Domestic Mail Manual standards adopted by the Postal Service to implement the Decision of the Governors of the Postal Service in Postal Rate Commission Docket No. R97–1, as it pertains to delivery confirmation service. The Postal Service is staying the applicability of Delivery Confirmation Service for customers sending mail to APO/FPO destinations. Effective immediately, customers cannot use Delivery Confirmation Service for mail sent to APO/FPO addresses.

DATES: Effective April 5, 1999, the applicability of the amendments to S918.1.2, S918.1.5 and S930.2.3b of the Domestic Mail Manual published in the **Federal Register** on Wednesday, March 10, 1999 (64 FR 12072) to mail to APO/FPO addresses is stayed until further notice as of 12:01 a.m. on April 5, 1999.

ADDRESSES: Any written comments should be mailed or delivered to John Gullo, Expedited/Package Services, 475 L'Enfant Plz SW RM 4267, Washington, DC 20260–4299. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: John Gullo (202) 268–7322.

SUPPLEMENTARY INFORMATION: This change is necessary to address special military requirements for implementation of Delivery Confirmation service.

This stay will be effective immediately, and the contemplated service for mail to APO/FPO addresses will not be available until further notice.

List of Subjects in 39 CFR Part 111

Postal Service.

The Postal Service hereby stays the applicability of its amendments of March 10, 1999 to S918.1.2, S918.1.5 and S930.2.3b of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR Part 111.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

2. The applicability of amendments to S918.1.2, S918.1.5 and S930.2.3b of the Domestic Mail Manual to mail to APO/FPO addresses is stayed until further notice.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–8673 Filed 4–5–99; 4:47 pm]

BILLING CODE 7710–02–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0025a; FRL–6319–7]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Removal and Replacement of Transportation Control Measure, Colorado Springs Element, Carbon Monoxide Section of the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a revision to the Colorado State Implementation Plan (SIP), carbon monoxide (CO) section, Colorado Springs element. In a June 25, 1996, submission, Colorado requests that emission reductions from oxygenate use in gasoline be substituted for reductions associated with the previously approved (48 FR 55284, December 12, 1983) bus acquisition program because the bus program was not implemented due to the lack of federal funding. This revision satisfies certain requirements of part D and section 110 of the Clean Air Act (CAA), as amended in 1990.

DATES: This direct final rule is effective on June 7, 1999 without further notice, unless EPA receives adverse comments by May 10, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection during normal business hours at the following offices:

United States Environmental Protection Agency, Region VIII, Air and Radiation Program, 999 18th Street, Suite 500, Denver, Colorado 80202–2466; and,

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

Copies of the State documents relevant to this action are available for public inspection at: Colorado Air Pollution Control Division, Colorado Department of Public Health and Environment, 4300 Cherry Creek

Drive South, Denver, Colorado, 80246–1530.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program, Mailcode 8P–AR, United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION:

I. Background

Part D of the CAA, which was added by the amendments of 1977, required States that were seeking an extension beyond 1982 to attain the CO National Ambient Air Quality Standard (NAAQS) to submit a revision to the SIP by July 1, 1982. This revision was to provide for attainment of the CO NAAQS by December 31, 1987. The Governor submitted the necessary SIP revision for Colorado Springs on June 24, 1982.

One of the CO control strategies described in the June 24, 1982, revision was a transportation control measure (TCM) involving improved public transit. This particular TCM required the acquisition of an additional 27 buses to supplement and expand the Colorado Springs fleet. Table 6.1 (''Percent Reductions in 1987 Ambient CO Concentrations Attributable To Control Measures'') of Chapter 6, ''Determination Of Air Quality Impacts Of The Proposed Plan'', of the June 24, 1982, submittal indicated that the ''Improved Public Transit'' TCM, which included the purchase of the 27 new buses spaced over 1981, 1982, 1983, and 1984, would result in a 1.5% reduction in the 1987 CO emissions in Colorado Springs. It was, however, specifically noted in the June 24, 1982, SIP revision that acquisition of these additional buses would only be possible if sufficient Federal funding was provided. The 1982 SIP revision indicated that the City of Colorado Springs could contribute $1,252,800 and that $5,010,800 was needed from Federal funds. Federal funds were not available for this bus program and the additional 27 buses were not purchased by Colorado Springs.

On February 24, 1993, the Pikes Peak Area Council of Governments (PPACG) approved the substitution of emissions reduction credits from an oxygenated gasoline program for the bus acquisition TCM. The emission reductions from the oxygenated gasoline program had not previously been credited in the Colorado Springs CO element of the SIP. The State calculated there was at least an 11% reduction in CO emissions for the 1987–88 winter CO season due to the implementation of the oxygenated gasoline program. This more than compensates for the calculated 1.5% reduction in CO emissions from the non-implemented bus-purchase program contained in the SIP.

On December 15, 1994, PPACG's revision was adopted by the Colorado Air Quality Control Commission (AQCC). This revision became Chapter 10 ''SIP Revision—December 1994'' of the Colorado Springs CO section of the SIP. The Governor submitted the SIP revision to EPA on January 29, 1996.

Colorado's oxygenated gasoline program has been revised a number of times since its inception in 1987–88. The program has continuously provided emissions reductions greater than those that would have been realized through the implementation of the bus-purchase program. Details regarding Colorado's Federally approved oxygenated gasoline program can be found in the March 10, 1997, **Federal Register** (62 FR 10690). The State has recently revised the oxygenated gasoline program through a further shortening of the oxygenated gasoline program season. To date, EPA has not taken any action on this SIP revision. EPA notes, however, that the revised oxygenated gasoline program continues to more than compensate for the emission reductions that would have been realized if the bus-purchase program had been implemented in Colorado Springs.

II. Analysis of the State's Submittal

The CAA requires States to observe certain procedural requirements in developing SIP revisions for submittal to EPA. Section 110(a)(2) of the CAA requires that States provide reasonable notice and a public hearing before adopting SIP revisions. Following reasonable notice, the AQCC conducted a public hearing on this matter on December 15, 1994. Directly after the hearing, the AQCC revised the Colorado Springs CO SIP to substitute the oxygenated gasoline program for the bus-purchase program as a source of emissions reductions credits.

The Governor submitted this revision, for the Colorado Springs element of the SIP, to EPA on January 29, 1996. By operation of law under the provisions of section 110(k)(1)(B) of the CAA, the submittal was deemed complete on July 29, 1996.

III. Final Rulemaking Action

EPA is approving the revision to the Colorado State Implementation Plan (SIP), carbon monoxide (CO) section, Colorado Springs element, that the Governor of Colorado submitted to EPA on June 25, 1996, to satisfy certain requirements of part D and section 110 of the Clean Air Act (CAA), as amended in 1990. The revision substitutes Colorado's oxygenated gasoline program (contained in Colorado's Regulation No. 13) for the Colorado Springs bus purchase program, as a source of emissions reductions credits in the Colorado Springs CO element of the SIP. As noted above, EPA approved the bus purchase program as part of the Colorado Springs CO element of the SIP on December 12, 1983 (48 FR 55284), but the program was never implemented. This action has the effect of removing the bus purchase program from the EPA-approved SIP.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective June 7, 1999 without further notice unless the Agency receives adverse comments by May 10, 1999.

If EPA receives such comments, then EPA will publish a timely withdrawal of the direct final rule informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on June 7, 1999 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a state, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a

description of the extent of EPA's prior consultation with representatives of affected state, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of state, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on state, local, or tribal governments. The rule does not impose any enforceable duties on state, local, or tribal governments. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13045

Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health and safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly affects or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12084 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, 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).

F. 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 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, will result from this action.

G. Submission to Congress and the Comptroller General

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

H. 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 June 7, 1999. 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).)

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law, sections 13–25–126.5, 13–90–107, and 25–1–114.5, Colorado Revised Statutes, (Colorado Senate Bill

94–139, effective June 1,1994) or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question or whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211, or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: March 24, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

40 CFR part 52, Subpart G, 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 G—Colorado

2. Section 52.349 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.349 Control strategy: Carbon monoxide.

* * * * *

(b) On June 25, 1996, the Governor of Colorado submitted a revision to the Colorado Springs element of the carbon monoxide (CO) portion of the Colorado State Implementation Plan (SIP). The revision to the Colorado Springs element was submitted to satisfy certain requirements of part D and section 110 of the Clean Air Act (CAA) as amended 1990. The revision substitutes Colorado's oxygenated gasoline program for the Colorado Springs bus purchase program as a source of emissions reductions credits in the Colorado Springs CO element of the SIP. This revision removes the bus purchase program from the EPA-approved SIP. EPA originally approved the bus purchase program as part of the Colorado Springs CO element of the SIP on December 12, 1983 (48 FR 55284).

[FR Doc. 99–8630 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 302–11

RIN 3090–AG91

[FTR Amendment 80—1998 Edition]

Federal Travel Regulation; Relocation Income Tax (RIT) Allowance Tax Tables

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: The Federal, State, and Puerto Rico tax tables for calculating the relocation income tax (RIT) allowance must be updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates. The Federal, State, and Puerto Rico tax tables contained in this rule are for calculating the 1999 RIT allowance to be paid to relocating Federal employees.

EFFECTIVE DATE: This final rule is effective January 1, 1999, and applies to RIT allowance payments made on or after January 1, 1999.

FOR FURTHER INFORMATION CONTACT: Calvin L. Pittman, Office of Governmentwide Policy (MTT), Washington, DC 20405, telephone (202) 501–1538.

SUPPLEMENTARY INFORMATION: This amendment provides the tax tables necessary to compute the RIT allowance for employees who are taxed in 1999 on moving expense reimbursements.

A. Background

Section 5724b of Title 5, United States Code, provides for reimbursement of substantially all Federal, State, and local income taxes incurred by a transferred Federal employee on taxable moving and storage expense reimbursements. Policies and procedures for the calculation and payment of a RIT allowance is contained in the FTR (41 CFR part 302–11). The Federal, State, and Puerto Rico tax tables for calculating RIT allowance payments are updated yearly to reflect changes in Federal, State, and Puerto Rico income tax brackets and rates.

B. Executive Order 12866

The General Services Administration (GSA) has determined that this final rule is not a significant regulatory action for the purposes of Executive Order 12866 of September 30, 1993.

C. Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment; therefore, the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, does not apply.

D. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed revisions do not impose recordkeeping or information collection requirements, or the collection of information from offerors, contractors, or members of the public which require the approval of the Office of Management and Budget under 44 U.S.C. 501 *et seq.*

E. Small Business Regulatory Enforcement Reform Act

This final rule is also exempt from congressional review prescribed under 5 U.S.C. 801 since it relates solely to agency management and personnel.

List of Subjects in 41 CFR Part 302–11

Government employees, Income taxes, Relocation allowances and entitlements, Transfers.

For the reasons set forth in the preamble, 41 CFR part 302–11 is amended to read as follows:

PART 302–11—RELOCATION INCOME TAX (RIT) ALLOWANCE

1. The authority citation for 41 CFR part 302–11 continues to read as follows:

Authority: 5 U.S.C. 5738; 20 U.S.C. 905(a); E.O. 11609, 36 FR 13747, 3 CFR, 1971–1975 Comp., p. 586.

2. Appendixes A, B, C, and D to part 302–11 are amended by adding the following tables at the end of each appendix, respectively:

Appendix A to Part 302–11—Federal Tax Tables For RIT Allowance

* * * * *

FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1998

[The following table is to be used to determine the Federal marginal tax rate for Year 1 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar year 1998.]

Marginal tax rate	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows and widowers		Married Filing Separately	
Percent	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$7,229	$33,530	$12,964	$48,232	$16,858	$61,069	$8,685	$30,351
28	33,530	73,135	48,232	109,311	61,069	126,880	30,351	63,863
31	73,135	145,648	109,311	177,378	126,880	184,945	63,863	92,550
36	145,648	299,410	177,378	321,683	184,945	308,061	92,550	152,715
39.6	299,410		321,683		308,061		152,715	

Appendix B to Part 302–11—State Tax Tables For RIT Allowance

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STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1998

[The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 1998.]

	Marginal tax rates (stated in percents) for the earned income amounts specified in each column.[1] [2]			
State (or district)	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & Over
Alabama	5	5	5	5
Alaska	0	0	0	0
Arizona	2.9	3.3	3.9	5.17
Arkansas	4.5	7	7	7
If single status [3]	6	7	7	7
California	2	4	8	9.3
If single status [3]	4	9.3	9.3	9.3
Colorado	5	5	5	5
Connecticut	3	4.5	4.5	4.5
If single status [3]	4.5	4.5	4.5	4.5
Delaware	5.8	6.9	6.9	6.9
District of Columbia	8	9.5	9.5	9.5
Florida	0	0	0	0
Georgia	6	6	6	6
Hawaii	8	9.5	10	10
If single status [3]	9.5	10	10	10
Idaho	7.8	8.2	8.2	8.2
Illinois	3	3	3	3
Indiana	3.4	3.4	3.4	3.4
Iowa	6.8	7.55	9.98	9.98
If single status [3]	7.2	8.8	9.98	9.98
Kansas	3.5	6.25	6.25	6.45
If single status [3]	4.1	7.75	7.75	7.75
Kentucky	6	6	6	6
Louisiana	2	4	4	6
If single status [3]	4	4	6	6
Maine	4.5	7	8.5	8.5
If single status [3]	8.5	8.5	8.5	8.5
Maryland	5	5	5	5
Massachusetts	5.95	5.95	5.95	5.95
Michigan	4.4	4.4	4.4	4.4
Minnesota	8	8	8	8.5
If single status [3]	8	8.5	8.5	8.5
Mississippi	5	5	5	5
Missouri	6	6	6	6
Montana	6	9	10	11
Nebraska	3.49	5.01	6.68	6.68
If single status [3]	5.01	6.68	6.68	6.68
Nevada	0	0	0	0
New Hampshire	0	0	0	0
New Jersey	1.4	1.75	2.45	6.37
If single status [3]	1.4	3.50	5.525	6.37
New Mexico	3.2	6	7.1	8.5
If single status [3]	6	7.1	7.9	8.5
New York	4	6	7.125	7.125

STATE MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1998—Continued

[The following table is to be used to determine the State marginal tax rates for calculation of the RIT allowance as prescribed in § 302–11.8(e)(2). This table is to be used for employees who received covered taxable reimbursements during calendar year 1998.]

State (or district)	Marginal tax rates (stated in percents) for the earned income amounts specified in each column.[1] [2]			
	$20,000–$24,999	$25,000–$49,999	$50,000–$74,999	$75,000 & Over
If single status [3]	6	7.125	7.125	7.125
North Carolina	6	7	7	7.75
North Dakota	6.67	9.33	12	12
If single status [3]	8	10.67	12	12
Ohio	2.853	4.279	4.993	7.201
Oklahoma	4	7	7	7
If single status [3]	7	7	7	7
Oregon	9	9	9	9
Pennsylvania	2.8	2.8	2.8	2.8
Rhode Island [4]	27	27	27	27
South Carolina	7	7	7	7
South Dakota	0	0	0	0
Tennessee	0	0	0	0
Texas	0	0	0	0
Utah	7	7	7	7
Vermont [5]	25	25	25	25
Virginia	5	5.75	5.75	5.75
Washington	0	0	0	0
West Virginia	4	4.5	6	6.5
Wisconsin	6.55	6.93	6.93	6.93
Wyoming	0	0	0	0

[1] Earned income amounts that fall between the income brackets shown in this table (e.g., $24,999.45, $49,999.75) should be rounded to the nearest dollar to determine the marginal tax rate to be used in calculating the RIT allowance.

[2] If the earned income amount is less than the lowest income bracket shown in this table, the employing agency shall establish an appropriate marginal tax rate as provided in § 302–11.8(e)(2)(ii).

[3] This rate applies only to those individuals certifying that they will file under a single status within the States where they will pay income taxes. All other taxpayers, regardless of filing status, will use the other rate shown.

[4] The income tax rate for Rhode Island is 27 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

[5] The income tax rate for Vermont is 25 percent of Federal income tax liability for all employees. Rates shown as a percent of Federal income tax liability must be converted to a percent of income as provided in § 302–11.8(e)(2)(iii).

Appendix C to Part 302–11—Federal Tax Tables For RIT Allowance—Year 2

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FEDERAL MARGINAL TAX RATES BY EARNED INCOME LEVEL AND FILING STATUS—TAX YEAR 1999

[The following table is to be used to determine the Federal marginal tax rate for Year 2 for computation of the RIT allowance as prescribed in § 302–11.8(e)(1). This table is to be used for employees whose Year 1 occurred during calendar years 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, or 1998.]

Marginal tax rate	Single taxpayer		Heads of household		Married filing jointly/ qualifying widows & widowers		Married filing separately	
Percent	Over	But not over	Over	But not over	Over	But not over	Over	But not over
15	$7,288	$33,937	$13,132	$48,851	$17,078	$62,143	$8,480	$30,536
28	33,937	73,812	48,851	109,613	62,143	128,360	30,536	61,844
31	73,812	145,735	109,613	177,494	128,360	185,189	61,844	95,644
36	145,735	300,782	177,494	324,383	185,189	309,316	95,644	164,417
39.6	300,782		324,383		309,316		164,417	

Appendix D to Part 302–11—Puerto Rico Tax Tables for RIT Allowance

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PUERTO RICO MARGINAL TAX RATES BY EARNED INCOME LEVEL—TAX YEAR 1998

[The following table is to be used to determine the Puerto Rico marginal tax rate for computation of the RIT allowance as prescribed in § 302–11.8(e)(4)(i).]

Marginal tax rate	Single filing status		Any other filing status	
Percent	Over	But not over	Over	But not over
12				$25,000
18		$25,000		
31	$25,000	50,000	$25,000	50,000
33	50,000		50,000	

Dated: March 24, 1999

David J. Barram,

Administrator of the General Services.

[FR Doc. 99–8685 Filed 4–7–99; 8:45 am]

BILLING CODE 6820–34–P

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Eligibility: Income Level for Individuals Eligible for Assistance

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: The Legal Services Corporation (''Corporation'') is required by law to establish maximum income levels for individuals eligible for legal assistance. This document updates the specified income levels to reflect the annual amendments to the Federal Poverty Guidelines as issued by the Department of Health and Human Services.

EFFECTIVE DATE: April 8, 1999.

FOR FURTHER INFORMATION CONTACT: Victor M. Fortuno, General Counsel, Legal Services Corporation, 750 First Street NE., Washington, DC 20002–4250; 202–336–8810.

SUPPLEMENTARY INFORMATION: Section 1007(a)(2) of the Legal Services Corporation Act (''Act''), 42 U.S.C. 2996f(a)(2), requires the Corporation to establish maximum income levels for individuals eligible for legal assistance, and the Act provides that other specified factors shall be taken into account along with income.

Section 1611.3(b) of the Corporation's regulations establishes a maximum income level equivalent to one hundred and twenty-five percent (125%) of the Federal Poverty Guidelines. Since 1982, the Department of Health and Human Services has been responsible for updating and issuing the Poverty Guidelines. The revised figures for 1999 set out below are equivalent to 125% of the current Poverty Guidelines as published on March 18, 1999 (64 FR 13428).

List of Subjects in 45 CFR Part 1611

Legal services.

For reasons set out in the preamble, 45 CFR 1611 is amended as follows:

PART 1611—ELIGIBILITY

1. The authority citation for Part 1611 continues to read as follows:

Authority: Secs. 1006(b)(1), 1007(a)(1) Legal Services Corporation Act of 1974, 42 U.S.C. 2996e(b)(1), 2996f(a)(1), 2996f(a)(2).

2. Appendix A of Part 1611 is revised to read as follows:

APPENDIX A OF PART 1611—LEGAL SERVICES CORPORATION 1998 POVERTY GUIDELINES [1]

Size of family unit	48 contiguous States [2]	Alaska [3]	Hawaii [4]
1	$10,300	$12,900	$11,863
2	13,825	17,300	15,913
3	17,350	21,700	19,963
4	20,875	26,100	24,013
5	24,400	30,500	28,063
6	27,925	34,900	32,113
7	31,450	39,300	36,163
8	34,975	43,700	40,213

[1] The figures in this table represent 125% of the poverty guidelines by family size as determined by the Department of Health and Human Services.
[2] For family units with more than eight members, add $3,525 for each additional member in a family.
[3] For family units with more than eight members, add $4,400 for each additional member in a family.
[4] For family units with more than eight members, add $4,050 for each additional member in a family.

Dated: April 5, 1999.

Victor M. Fortuno,

General Counsel.

[FR Doc. 99–8602 Filed 4–7–99; 8:45 am]

BILLING CODE 7050–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 98–37; RM–9238]

Radio Broadcasting Services; Frankston and Palestine, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document reallots Channel 244C2 from Palestine, Texas, to Frankston, Texas, and modifies the authorization for Station KLIS, Palestine, to specify operation at Frankston, in response to a petition filed by Nicol/Excel Broadcasting, LLC. *See* 63 FR 17145, April 2, 1998. (On May 30, 1997, the license for Station KLIS, Palestine, Texas, was modified to

specify operation on Channel 244C2 in lieu of Channel 244A, BPH–97031IC.) The coordinates for Channel 244C2 at Frankston are 32–02–02 NL and 95–24–30 WL. With this action, this proceeding is terminated.

EFFECTIVE DATE: May 17, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–37, adopted March 10, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (Room 239), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800, facsimile (202) 857–3805.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by removing Channel 244A at Palestine and adding Frankston, Channel 244C2.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8740 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–M

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1533 and 1552

[FRL–6320–1]

Acquisition Regulation: Incorporate Solicitation Notice for Agency Protests

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct Final Rule.

SUMMARY: EPA is taking direct final action on amending the EPA Acquisition Regulation (EPAAR) (48 CFR Chapter 15) to include the solicitation notice of the filing requirements for Agency protests.

DATES: This rule is effective on July 7, 1999 without further notice, unless EPA receives adverse comments by June 7, 1999. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be submitted to the contact listed below at the following address: U.S. Environmental Protection Agency, Office of Acquisition Management (3802R), 401 M Street, SW, Washington, D.C. 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: Avellar.Linda@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 6.1 formal or ASCII file format. No confidential business information (CBI) should be submitted through e-mail. Electronic comments on this rule may be filed on-line at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Linda Avellar, U.S. EPA, Office of Acquisition Management, (3802R), 401 M Street, SW, Washington, D.C. 20460, Telephone: (202) 564–4356.

SUPPLEMENTARY INFORMATION:

A. Background

This direct final rule includes the notice of filing requirements for Agency protests. This notice of filing is in accordance with the Federal Acquisition Regulation (FAR) 33.103(d)(4). EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comment; usage of this notice of filing in Agency solicitations has been non-controversial. This rule will be effective on July 7, 1999 without further notice unless we receive adverse comments by June 7, 1999. If EPA receives adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We also will publish a notice of proposed rulemaking in a future edition of the **Federal Register**. We will address the comments on the direct final rule as part of that proposed rulemaking.

B. Executive Order 12866

The direct final rule is not a significant regulatory action for the purposes of Executive Order 12866; therefore, no review is required by the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB).

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because this direct final rule does not contain information collection requirements that require the approval of OMB under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

D. Regulatory Flexibility Act

The EPA certifies that this direct final rule does not exert a significant economic impact on a substantial number of small entities. The requirements to contractors under the rule impose no reporting, recordkeeping, or any compliance costs.

E. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess their regulatory actions on State, local, and tribal governments, and the private sector. This direct final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in one year. Any private sector costs for this action relate to paperwork requirements and associated expenditures that are far below the level established for UMRA applicability. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

F. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be economically significant as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant rule as defined by E.O. 12866, and because it does not involve decisions on environmental health or safety risks.

G. Executive Order 12875

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.'' Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

H. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to the OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal government ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

I. National Technology Transfer and Advancement Act of 1995

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Pub. L. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Submission to Congress and the General Accounting Office

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

Authority: The provisions of this regulation are issued under 5 U.S.C. 301; Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 1533 and 1552

Government procurement.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

PARTS 1533 AND 1552—[AMENDED]

1. The authority citations for part 1533 and for part 1552 continue to read as follows:

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

2. Section 1533.103, is revised to read as follows: 1533.103 Protests to the Agency.

Protests to the Agency are processed pursuant to the requirements of FAR 33.103. Contracting Officers must include in every solicitation the provision at 1552.233–70, Notice of Filing Requirements for Agency Protests.

3. Part 1552 is amended by adding the following new Section 1552.233–70:

1552.233–70 Notice of Filing Requirements for Agency Protests.

As prescribed in 1533.103, insert the following clause in all types of solicitations:

Notice of Filing Requirements for Agency Protests July 1999

Agency protests must be filed with the Contracting Officer in accordance with the requirements of FAR 33.103 (d) and (e). Within 10 calendar days after receipt of an adverse Contracting Officer decision, the protester may submit a written request for an independent review by the Head of the Contracting Activity. This independent review is available only as an appeal of a Contracting Officer decision on a protest. Accordingly, as provided in 4 CFR 21.2(a)(3), any protest to the GAO must be filed within 10 days of knowledge of the initial adverse Agency action.

Dated: March 1, 1999.

Betty L. Bailey,

Director, Office of Acquisition Management.

[FR Doc. 99–8479 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF01

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Jarbidge River Population Segment of Bull Trout

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened status for the Jarbidge River distinct population segment of bull trout (*Salvelinus confluentus*) from the Jarbidge River basin in northern Nevada and southern Idaho, with a special rule, pursuant to the Endangered Species Act of 1973, as amended (Act). The Jarbidge River population segment, composed of a single subpopulation with few individuals, is threatened by habitat degradation from past and ongoing land

management activities such as road construction and maintenance, mining, and grazing; interactions with non-native fishes; and incidental angler harvest. We based this final determination on the best available scientific and commercial information including current data and new information received during the comment period. This action continues protection for this population segment of the bull trout which was effective for a 240-day period beginning when we emergency listed this population segment on August 11, 1998.

EFFECTIVE DATE: This rule is effective on April 8, 1999.

ADDRESSES: The complete administrative file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Nevada Fish and Wildlife Office, 1340 Financial Boulevard, Suite 234, Reno, Nevada 89502–7147.

FOR FURTHER INFORMATION CONTACT: Robert D. Williams, Field Supervisor, at the above address (telephone 775/861–6300; facsimile 775/861–6301).

SUPPLEMENTARY INFORMATION:

Background

Bull trout (*Salvelinus confluentus*), members of the family Salmonidae, are char native to the Pacific northwest and western Canada. They historically occurred in major river drainages in the Pacific northwest from about 41° N to 60° N latitude, from the southern limits in the McCloud River in northern California and the Jarbidge River in Nevada, north to the headwaters of the Yukon River in Northwest Territories, Canada (Cavender 1978; Bond 1992). To the west, bull trout range includes Puget Sound, various coastal rivers of Washington, British Columbia, Canada, and southeast Alaska (Bond 1992; Leary and Allendorf 1997). Bull trout are relatively dispersed throughout tributaries of the Columbia River basin, including its headwaters in Montana and Canada. Bull trout also occur in the Klamath River basin of south-central Oregon. East of the Continental Divide, bull trout are found in the headwaters of the Saskatchewan River in Alberta and the MacKenzie River system in Alberta and British Columbia (Cavender 1978; Brewin and Brewin 1997). Bull trout habitat in the Jarbidge River basin is a mosaic of land ownership, including Federal lands administered by the U.S. Forest Service (USFS) and U.S. Bureau of Land Management (BLM); State lands in Idaho; and private lands.

Bull trout were first described as *Salmo spectabilis* by Girard in 1856 from a specimen collected on the lower Columbia River (Cavender 1978). Bull trout and Dolly Varden (*Salvelinus malma*) were previously considered a single species (Cavender 1978; Bond 1992); however, they were formally recognized as separate species by the American Fisheries Society in 1980 (Robins *et al.* 1980).

Bull trout exhibit both resident and migratory life history strategies through much of the current range (Rieman and McIntyre 1993). Resident bull trout complete their life cycles in the tributary streams in which they spawn and rear. Migratory bull trout spawn in tributary streams, and juvenile fish rear from 1 to 4 years before migrating to either a lake (adfluvial), river (fluvial), or in certain coastal areas, saltwater (anadromous), to mature (Fraley and Shepard 1989; Goetz 1989). Resident and migratory forms may be found together, and bull trout may produce offspring exhibiting either resident or migratory behavior (Rieman and McIntyre 1993).

Compared to other salmonids, bull trout have more specific habitat requirements (Rieman and McIntyre 1993) that appear to influence their distribution and abundance. These habitat components include water temperature, cover, channel form and stability, valley form, stream elevation, spawning and rearing substrates, and migratory corridors (Oliver 1979; Pratt 1984, 1992; Fraley and Shepard 1989; Goetz 1989; Hoelscher and Bjornn 1989; Sedell and Everest 1991; Howell and Buchanan 1992; Rieman and McIntyre 1993, 1995; Rich 1996; Watson and Hillman 1997). Watson and Hillman (1997) concluded that watersheds must have specific physical characteristics to provide the necessary habitat requirements for bull trout spawning and rearing, and that the characteristics are not necessarily ubiquitous throughout watersheds in which bull trout occur. Because bull trout exhibit a patchy distribution, even in undisturbed habitats (Rieman and McIntyre 1993), fish would not likely occupy all available habitats simultaneously (Rieman *et al.* 1997).

Bull trout are typically associated with the colder streams in a river system, although individual fish can occur throughout larger river systems (Fraley and Shepard 1989; Rieman and McIntyre 1993, 1995; Buchanan and Gregory 1997; Rieman *et al.* 1997). For example, water temperature above 15° C (59° F) is believed to negatively influence bull trout distribution, which partially explains the generally patchy distribution within a watershed (Fraley and Shepard 1989; Rieman and McIntyre 1995). Spawning areas are often associated with cold-water springs, groundwater infiltration, and the coldest streams in a given watershed (Pratt 1992; Rieman and McIntyre 1993; Rieman *et al.* 1997).

All life history stages of bull trout are associated with complex forms of cover, including large woody debris, undercut banks, boulders, and pools (Oliver 1979; Fraley and Shepard 1989; Goetz 1989; Hoelscher and Bjornn 1989; Sedell and Everest 1991; Pratt 1992; Thomas 1992; Rich 1996; Sexauer and James 1997; Watson and Hillman 1997). Jakober (1995) observed bull trout overwintering in deep beaver ponds or pools containing large woody debris in the Bitterroot River drainage, Montana, and suggested that suitable winter habitat may be more restrictive than summer habitat. Maintaining bull trout populations requires stream channel and flow stability (Rieman and McIntyre 1993). Juvenile and adult bull trout frequently inhabit side channels, stream margins, and pools with suitable cover (Sexauer and James 1997). These areas are sensitive to activities that directly or indirectly affect stream channel stability and alter natural flow patterns. For example, altered stream flow in the fall may disrupt bull trout during the spawning period and channel instability may decrease survival of eggs and young juveniles in the gravel during winter through spring (Fraley and Shepard 1989; Pratt 1992; Pratt and Huston 1993).

Preferred spawning habitat generally consists of low gradient streams with loose, clean gravel (Fraley and Shepard 1989) and water temperatures of 5 to 9° C (41 to 48° F) in late summer to early fall (Goetz 1989). However, biologists collected young-of-the-year bull trout in high gradient stream reaches with minimal gravel within the Jarbidge River basin, indicating that spawning occurred in these areas or further upstream (Gary Johnson, Nevada Division of Wildlife (NDOW), pers. comm. 1998a; Terry Crawforth, NDOW, *in litt.* 1998). Pratt (1992) reported that increases in fine sediments reduce egg survival and emergence.

The size and age of maturity for bull trout is variable depending upon life history strategy. Growth of resident fish is generally slower than migratory fish; resident fish tend to be smaller at maturity and less fecund (Fraley and Shepard 1989; Goetz 1989). Resident adults range from 150 to 300 millimeters (mm) (6 to 12 inches (in)) total length and migratory adults commonly reach 600 mm (24 in) or more (Goetz 1989).

Bull trout normally reach sexual maturity in 4 to 7 years and live as long

as 12 years. Repeat and alternate year spawning have been reported, although repeat spawning frequency and post-spawning mortality are not well known (Leathe and Graham 1982; Fraley and Shepard 1989; Pratt 1992; Rieman and McIntyre 1996). Bull trout typically spawn from August to November during periods of decreasing water temperatures. However, migratory bull trout may begin spawning migrations as early as April, and move upstream as far as 250 kilometers (km) (155 miles (mi)) to spawning grounds in some areas of their range (Fraley and Shepard 1989; Swanberg 1997). Temperatures during spawning generally range from 4 to 10° C (39 to 51° F), with redds (spawning beds) often constructed in stream reaches fed by springs or near other sources of cold groundwater (Goetz 1989; Pratt 1992; Rieman and McIntyre 1996). Depending on water temperature, egg incubation is normally 100 to 145 days (Pratt 1992), and juveniles remain in the substrate after hatching. Time from egg deposition to emergence may surpass 200 days. Fry normally emerge from early April through May depending upon water temperatures and increasing stream flows (Pratt 1992; Ratliff and Howell 1992).

Bull trout are opportunistic feeders, with food habits primarily a function of size and life history strategy. Resident and juvenile bull trout prey on terrestrial and aquatic insects, macro-zooplankton, amphipods, mysids, crayfish, and small fish (Wyman 1975; Rieman and Lukens 1979 in Rieman and McIntyre 1993; Boag 1987; Goetz 1989; Donald and Alger 1993). Adult migratory bull trout are primarily piscivorous (fish eating) and are known to feed on various trout and salmon species (*Onchorynchus* spp.), whitefish (*Prosopium* spp.), yellow perch (*Perca flavescens*) and sculpin (*Cottus* spp.) (Fraley and Shepard 1989; Donald and Alger 1993).

In the Jarbidge River basin, bull trout occur with native redband trout (*Oncorhynchus mykiss*), mountain whitefish (*Prosopium williamsoni*), sculpin, bridgelip sucker (*Catostomus columbianus*), and various minnow (Cyprinidae) species. Introductions of non-native fishes, including brook trout (*Salvelinus fontinalis*), and hatchery rainbow trout (*O. mykiss*), have also occurred within the range of bull trout in the Jarbidge River basin. These non-native fishes have been associated with local bull trout declines and extirpations elsewhere in the species' range (Bond 1992; Ziller 1992; Donald and Alger 1993; Leary *et al.* 1993; Montana Bull Trout Scientific Group (MBTSG) 1996a).

Stocked brook trout failed to establish a self-sustaining population in the Jarbidge River system, but an introduced population still occurs in Emerald Lake, a high-elevation lake within the Jarbidge River watershed (T. Crawforth, *in litt.* 1998; Rich Haskins, NDOW, pers. comm. 1998; G. Johnson, pers. comm. 1998). Brook trout may spill out of the lake into the East Fork of the Jarbidge River during peak runoff events, although the lack of a defined outlet makes such an event appear unlikely (G. Johnson, pers. comm. 1994). NDOW's rainbow trout stocking program in the Jarbidge River system has been ongoing since the 1970s, and the Idaho Department of Fish and Game (IDFG) stocked rainbow trout in the Idaho portion of the East and West Forks of the Jarbidge River from 1970 to 1989 (Fred Partridge, IDFG, *in litt.* 1998).

Migratory corridors link seasonal habitats for all bull trout life history forms. The ability to migrate is important to the persistence of local bull trout subpopulations (Rieman and McIntyre 1993; Mike Gilpin, University of California, *in litt.* 1997; Rieman and Clayton 1997; Rieman *et al.* 1997). Migrations facilitate gene flow among local subpopulations if individuals from different subpopulations interbreed when some return to non-natal streams. Migratory fish may also re-establish extirpated local subpopulations.

Metapopulation concepts of conservation biology theory may be applicable to the distribution and characteristics of bull trout (Rieman and McIntyre 1993). A metapopulation is an interacting network of local subpopulations with varying frequencies of migration and gene flow among them (Meffe and Carroll 1994). Metapopulations provide a mechanism for reducing risk because the simultaneous loss of all subpopulations is unlikely. Although local subpopulations may become extinct, they can be reestablished by individuals from other local subpopulations. However, because bull trout exhibit strong homing fidelity when spawning and their rate of straying appears to be low, natural reestablishment of extinct local subpopulations may take a very long time. Habitat alteration, primarily through construction of impoundments, dams, and water diversions, has fragmented habitats, eliminated migratory corridors, and isolated bull trout, often in the headwaters of tributaries (Rieman *et al.* 1997).

Distinct Population Segments

The best available scientific and commercial information identifies five distinct population segments (DPSs) of bull trout in the United States—(1) Klamath River, (2) Columbia River, (3) Coastal-Puget Sound, (4) Jarbidge River, and (5) St. Mary-Belly River. The final listing determination for the Klamath River and Columbia River bull trout DPSs on June 10, 1998 (63 FR 31647), includes a detailed description of the rationale behind the DPS delineation. The approach is consistent with the joint National Marine Fisheries Service and Fish and Wildlife Service policy for recognizing distinct vertebrate population segments under the Act, published on February 7, 1996 (61 FR 4722). This final rule addresses only the Jarbidge River DPS. The Coastal-Puget Sound and St. Mary-Belly River bull trout DPSs will be the subject of a final rule expected to be published in June 1999.

Three elements are considered in the decision on whether a population segment could be treated as threatened or endangered under the Act—discreteness, significance, and conservation status in relation to the standards for listing. Discreteness refers to the isolation of a population from other members of the species and is based on two criteria—(1) marked separation from other populations of the same taxon resulting from physical, physiological, ecological, or behavioral factors, including genetic discontinuity; and (2) populations delimited by international boundaries. Significance is determined either by the importance or contribution, or both, of a discrete population to the species throughout its range. Four criteria were used to determine significance—(1) persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the discrete population segment represents the only surviving natural occurrence of the taxon that may be more abundant elsewhere as an introduced population outside its historic range; and (4) evidence that the discrete population segment differs markedly from other populations of the taxon in its genetic characteristics. If a population segment is discrete and significant, its evaluation for endangered or threatened status is based on the Act's standards.

The Jarbidge River in southwest Idaho and northern Nevada is a tributary in the Snake River basin and contains the southernmost habitat occupied by bull trout. This population segment is discrete because it is geographically segregated from other bull trout in the Snake River basin by more than 240 km (150 mi) of unsuitable habitat and

several impassable dams on the mainstem Snake River and the lower Bruneau River. The occurrence of a species at the extremities of its range is not necessarily sufficient evidence of significance to the species as a whole. However, since the Jarbidge River possesses bull trout habitat that is disjunct from other patches of suitable habitat, the population segment is considered significant because it occupies a unique or unusual ecological setting, and its loss would result in a substantial modification of the species' range.

Status and Distribution

To facilitate evaluation of current bull trout distribution and abundance for the Jarbidge River population segment, we analyzed data on a subpopulation basis because fragmentation and barriers have isolated bull trout. A subpopulation is considered a reproductively isolated bull trout group that spawns within a particular area(s) of a river system. In areas where two groups of bull trout are separated by a barrier (e.g., an impassable dam or waterfall, or reaches of unsuitable habitat) that may allow only downstream access (i.e., one-way passage), both groups would be considered subpopulations. In addition, subpopulations were considered at risk of extirpation from natural events if they were—

(1) Unlikely to be reestablished by individuals from another subpopulation (i.e., functionally or geographically isolated from other subpopulations);

(2) Limited to a single spawning area (i.e., spatially restricted); and

(3) Characterized by low individual or spawner numbers; or

(4) Consisted primarily of a single life history form.

For example, a subpopulation of resident fish isolated upstream of an impassable waterfall would be considered at risk of extirpation from natural events if it had low numbers of fish that spawn in a relatively restricted area. In such cases, a natural event such as a fire or flood could eliminate the subpopulation, and subsequently, the impassable waterfall would prevent reestablishment of the subpopulation by downstream fish. However, a subpopulation residing downstream of the waterfall would not be considered at risk of extirpation because of potential reestablishment by fish from upstream. Because resident bull trout may exhibit limited downstream movement (Nelson 1996), our estimate of subpopulations at risk of extirpation by natural events may be underestimated. We based the status of subpopulations on modified criteria of Rieman *et al.* (1997), including the abundance, trends in abundance, and the presence of life history forms of bull trout.

We considered a bull trout subpopulation ''strong'' if 5,000 individuals or 500 spawners likely occur in the subpopulation, abundance appears stable or increasing, and life history forms historically present were likely to persist. A subpopulation was considered ''depressed'' if less than 5,000 individuals or 500 spawners likely occur in the subpopulation, abundance appears to be declining, or a life history form historically present has been lost (Rieman *et al.* 1997). If there was insufficient abundance, trend, and life history information to classify the status of a subpopulation as either ''strong'' or ''depressed,'' the status was considered ''unknown.'' It should be noted that the assignment of ''unknown'' status implies only a deficiency of available data to assign a subpopulation as ''strong'' or ''depressed,'' not a lack of information regarding the threats. Section 4 of the Act requires us to make a determination solely on the best scientific and commercial data available.

The Jarbidge River DPS is currently believed to contain a single subpopulation in the East Fork, West Fork, and mainstem Jarbidge River in Idaho and Nevada, and headwater tributaries in Nevada (Service 1998), however, further definitive genetic analysis of population structure is needed. This population segment is isolated from other bull trout by a large expanse of unsuitable habitat. Although accounts of bull trout in the Jarbidge River basin date to the 1930s, both sampling and actual collections of bull trout were infrequent (Miller and Morton 1952; Johnson 1990; Johnson and Weller 1994). Therefore, historical distribution and abundance data are limited.

The current distribution of bull trout in the Jarbidge River basin primarily includes headwater streams above 2,200 meters (m) (7,200 feet (ft)) elevation within the Jarbidge Wilderness Area—the East Fork and West Fork Jarbidge River and Slide, Dave, Pine, Sawmill, Fall, and Cougar Creeks (Johnson and Weller 1994; G. Johnson, pers. comm. 1998a). There is no definitive information on whether bull trout have been extirpated from Jarbidge River headwater tributaries. However, recent surveys indicate that bull trout have likely been extirpated from one historical tributary, Jack Creek (G. Johnson, pers. comm. 1998a; T. Crawforth, *in litt.* 1998).

In 1934, bull trout were first collected in Dave Creek (East Fork Jarbidge River drainage) downstream of the Idaho-Nevada border (Miller and Morton 1952). They were later documented in the East Fork of the Jarbidge River in 1951 and the West Fork in 1954 (T. Crawforth, *in litt.* 1998). Zoellick *et al.* (1996) compiled survey data from 1954 through 1993 and estimated bull trout population size in the middle and upper headwater areas of the West and East Forks of the Jarbidge River at less than 150 fish/km (240 fish/mi). Low numbers of migratory (fluvial) bull trout were documented in the West Fork of the Jarbidge River from the 1970s through the mid-1980s (Johnson and Weller 1994). In 1985, 292 resident-size bull trout were estimated to reside in the West Fork (Johnson and Weller 1994). In 1993, the abundance of resident-size bull trout in the East Fork was estimated at 314 fish (Johnson and Weller 1994). During snorkel surveys conducted in October 1997, no bull trout were observed in 40 pools of the West Fork of the Jarbidge River. Biologists did not observe bull trout during surveys in the Idaho portion of the Jarbidge River basin in 1992 or 1995 (Warren and Partridge 1993; Allen *et al.* 1996). However, traps operated on the lower East and West Forks, during August through October 1997, captured a single small bull trout in Idaho on the West Fork. (Zoellick *et al.* 1996; T. Crawforth, *in litt.* 1998). The *Salvelinus confluentus* Curiosity Society (SCCS), a group of individuals interested in bull trout conservation, surveyed bull trout in the Jarbidge River in August 1998. During this 1-day survey, a total of approximately 40 stations were sampled throughout the West Fork of the Jarbidge River, Jack Creek, Pine Creek and tributaries, Dave Creek, Fall Creek and tributaries, Slide Creek and tributaries, and Sawmill Creek. A total of 66 adult and juvenile bull trout were reported as either collected or observed (Selena Werdon, Service, pers. comm. 1998). No bull trout were found in one historically occupied stream, Jack Creek, despite the removal of a fish barrier in 1997.

NDOW provided population estimates, based on extrapolations of SCCS data and NDOW surveys, which totaled about 1,800 fish in the West and East Forks of the Jarbidge River, and seven other creeks and tributaries (G. Johnson, pers. comm. 1998a). However, the value of this data is in question (see our response to ''Issue 2''). Also, it is estimated that between 50 and 125 bull trout spawn throughout the Jarbidge River basin annually (G. Johnson, pers. comm. 1998b). Exact spawning sites and timing are uncertain (G. Johnson, pers. comm. 1998a). A total of three potential

resident bull trout redds were observed in the upper West Fork in 1995 and 1997 surveys (Ramsey 1997).

Adequate population trend information for bull trout in the Jarbidge River subpopulation is not available, although the current characteristics of bull trout in the basin include low numbers and disjunct distribution. These characteristics have been described as similar to that observed in the 1950s (Johnson and Weller 1994). Based on recent surveys, the bull trout population in the Jarbidge River basin is considered ''depressed'' in all of the occupied range. Migratory fish (fluvial) may be present in low abundance, but resident fish are the predominant life history form. Past and present activities within the Jarbidge River basin have likely restricted bull trout migration, thus reducing opportunities for bull trout reestablishment in areas where the fish are no longer found (Service 1998).

In 1998, the SCCS collected fin clips for genetic analysis from bull trout within the Jarbidge River basin. Although sample sizes from each stream varied and were typically small (less than 30 individuals), preliminary genetic analysis of these tissue samples using DNA microsatellites indicated that fish in the East and West Forks were highly differentiated, and that tributaries to the East Fork also showed differentiation (Jason Dunham, University of Nevada-Reno, *in litt.* 1998; Bruce Rieman, USFS, *in litt.* 1998; Paul Spruell, University of Montana, *in litt.* 1998). These preliminary data indicate the potential presence of multiple, tributary resident bull trout subpopulations, with limited gene flow among them, within the Jarbidge River basin (T. Crawforth, *in litt.* 1998; J. Dunham, *in litt.* 1998; B. Rieman, *in litt.* 1998).

In summary, we considered new, though limited, information submitted on the abundance, trends in abundance, and distribution of bull trout in the Jarbidge River population segment. Resident fish inhabit the East Fork and West Fork of the Jarbidge River and tributary streams, and extremely low numbers of migratory (fluvial) fish may still be present in the watershed (Zoellick *et al.* 1996; K. Ramsey, USFS, *in litt.* 1997; L. McLelland, NDOW, *in litt.* 1998; Crawforth, *in litt.* 1998). If the Jarbidge River DPS is extirpated, individuals from other areas are unlikely to reestablish this DPS due to the presence of dams downstream on the Snake and Bruneau Rivers and the 240 km (150 mi) of unsuitable, degraded habitat within these migratory corridors. Past and present activities within the Jarbidge River basin have likely restricted bull trout migration, thus reducing opportunities for bull trout reestablishment in areas where the fish are no longer found (Service 1998). There is no definitive information on whether bull trout have been extirpated from Jarbidge River headwater tributaries. However, recent surveys indicate that bull trout have likely been extirpated from one historical tributary, Jack Creek.

Previous Federal Action

On October 30, 1992, we received a petition to list the bull trout as an endangered species throughout its range from the following conservation organizations in Montana: Alliance for the Wild Rockies, Inc., Friends of the Wild Swan, and Swan View Coalition (petitioners). The petitioners also requested an emergency listing and concurrent critical habitat designation for bull trout populations in select aquatic ecosystems where the biological information indicated that the species was in imminent risk of extinction. A 90-day finding, published on May 17, 1993 (58 FR 28849), determined that the petitioners had provided substantial information indicating that listing of the species may be warranted. We initiated a rangewide status review of the species concurrent with publication of the 90-day finding.

On June 6, 1994, we concluded in our original 12-month finding that listing of bull trout throughout its range was not warranted due to unavailable or insufficient data regarding threats to, and status and population trends of, the species within Canada and Alaska. However, we determined that sufficient information on the biological vulnerability and threats to the species was available to support a warranted finding to list bull trout within the coterminous United States but this action was precluded due to higher priority listings.

On November 1, 1994, Friends of the Wild Swan, Inc. and Alliance for the Wild Rockies, Inc. (plaintiffs) filed suit in the U.S. District Court of Oregon (District Court) arguing that the warranted but precluded finding was arbitrary and capricious. After we ''recycled'' the petition and issued another 12-month finding for the coterminous population of bull trout on June 12, 1995 (60 FR 30825), the District Court issued an order declaring the plaintiffs' challenge to the original finding moot. The plaintiffs declined to amend their complaint and appealed to the Ninth Circuit Court of Appeals (Circuit Court), which found that the plaintiffs' challenge fell ''within the exception to the mootness doctrine for claims that are capable of repetition yet evading review.'' On April 2, 1996, the Circuit Court remanded the case back to the District Court. On November 13, 1996, the District Court issued an order and opinion remanding the original finding to us for further consideration. Included in the instructions from the District Court were requirements that we limit our review to the 1994 administrative record, and incorporate any emergency listings or high magnitude threat determinations into current listing priorities. The reconsidered 12-month finding based on the 1994 Administrative Record was delivered to the District Court on March 13, 1997.

On March 24, 1997, the plaintiffs filed a motion for mandatory injunction to compel us to issue a proposed rule to list the Klamath River and Columbia River bull trout populations within 30 days based solely on the 1994 Administrative Record. On April 4, 1997, we requested 60 days to prepare and review the proposed rule. In a stipulation between the plaintiffs and us filed with the District Court on April 11, 1997, we agreed to issue a proposed rule in 60 days to list the Klamath River population of bull trout as endangered and the Columbia River population of bull trout as threatened based solely on the 1994 record.

We proposed the Klamath River population of bull trout as endangered and Columbia River population of bull trout as threatened on June 13, 1997 (62 FR 32268). The proposal included a 60-day comment period and gave notice of five public hearings in Portland, Oregon; Spokane, Washington; Missoula, Montana; Klamath Falls, Oregon; and Boise, Idaho. The comment period on the proposal, which originally closed on August 12, 1997, was extended to October 17, 1997 (62 FR 42092), to provide the public with more time to compile information and submit comments.

On December 4, 1997, the District Court ordered us to reconsider several aspects of the 1997 reconsidered finding. On February 2, 1998, the District Court gave us until June 12, 1998, to respond. The final listing determination for the Klamath River and Columbia River population segments of bull trout and the concurrent proposed listing rule for the Coastal-Puget Sound, St. Mary-Belly River, and Jarbidge River DPSs constituted our response.

We published a final rule listing the Klamath River and Columbia River population segments of bull trout as threatened on June 10, 1998 (63 FR 31647). On the same date, we also published a proposed rule to list the

Coastal-Puget Sound, Jarbidge River, and St. Mary-Belly River population segments of bull trout as threatened (63 FR 31693). On August 11, 1998, we issued an emergency rule listing the Jarbidge River population segment of bull trout as endangered due to river channel alteration associated with unauthorized road construction on the West Fork of the Jarbidge River, which we found to imminently threaten the survival of the distinct population segment (63 FR 42757).

Summary of Comments and Recommendations

In the June 10, 1998, proposed rule (63 FR 31693), we requested interested parties to submit comments or information that might contribute to the final listing determination for bull trout. We sent announcements of the proposed rule and notice of public hearings to at least 800 individuals, including Federal, State, county and city elected officials, State and Federal agencies, interested private citizens and local area newspapers and radio stations. We also published announcements of the proposed rule in 10 newspapers, the Idaho Statesman, Boise, Idaho; the Times-News, Twin Falls, Idaho; the Glacier Reporter, Browning, Montana; the Daily Inter Lake; Kalispell, Montana; the Great Falls Tribune, Great Falls, Montana; the Elko Daily Free Press, Elko, Nevada; the Bellingham Herald, Bellingham, Washington; the Olympian, Olympia, Washington; the Spokesman-Review, Spokane, Washington, and the Seattle Post-Intelligencer, Seattle, Washington. We held public hearings on July 7, 1998, in Lacey, Washington; July 9, 1998, in Mount Vernon, Washington; July 14, 1998, in East Glacier, Montana; and July 21, 1998, in Jackpot, Nevada. We accepted comments on the emergency rule for the Jarbidge River DPS until the comment period on the proposed rule ended on October 8, 1998.

We received 9 oral and 14 written comments (including electronic mail) on the proposed rule which pertained to the Jarbidge River DPS; other comments were generic to all three DPSs. Of those specific to the Jarbidge River DPS, four written comments also addressed the emergency rule. We also received comments on the Jarbidge River DPS from two Federal agencies, two State agencies, one county in Nevada, four environmental organizations, and nine individuals. We received comments from a member of the Nevada Congressional delegation. In addition, we solicited formal scientific peer review of the proposal in accordance with our July 1, 1994, Interagency Cooperative Policy (59 FR 34270). We requested six individuals, who possess expertise in bull trout biology and salmonid ecology, and whose affiliations include academia and Federal, State, and provincial agencies, to review the proposed rule by the close of the comment period. One individual responded to our request and their comments are also addressed in this section of the rule.

We considered all comments, including oral testimony presented at the public hearings, and also the comments from the only peer reviewer who responded to our request to review the proposed rule. A majority of comments supported the listing proposal for the Jarbidge River DPS, while seven comments were in opposition. Opposition was based on several concerns, including possible negative economic effects from listing bull trout; potential restrictions on activities; lack of solutions to the bull trout decline that would result from listing; and interpretation of data concerning the status of bull trout and their threats in the three population segments. The USFS (Ben Siminoe, USFS, *in litt.* 1998; Dave Aicher, USFS, pers. comm. 1998), BLM (Jim Klott, BLM, pers. comm. 1998), NDOW (G. Johnson, NDOW, pers. comm. 1998a; R. Haskins, NDOW, *in litt.* 1998), and IDFG (F. Partridge, IDFG, *in litt.* 1998) provided us with information on respective agency efforts to assess, evaluate, monitor, and conserve bull trout in habitats affected by each agency's management. Because multiple respondents offered similar comments, we grouped comments of a similar nature or point. These comments and our responses are presented below.

Issue 1: One respondent questioned our subpopulation definition and asked whether absolute reproductive isolation was required or only some level of population structuring that means reduced gene flow and some local adaptation. Several respondents questioned our single subpopulation designation for the Jarbidge River DPS given preliminary new genetic information which indicates the potential presence of multiple local tributary subpopulations, with limited gene flow. Some respondents also suggested that the bull trout in the Jarbidge River may better fit the definition of a metapopulation, as described in the proposed rule (63 FR 31693). Respondents pointed out that genetic information and changes in DPS population structuring have implications for risk assessment, as well as management and recovery strategies.

Our Response: We selected subpopulations as a convenient unit to analyze bull trout within population segments, and defined a subpopulation as ''a reproductively isolated group of bull trout that spawns within a particular area of a river system.'' We identified subpopulations based on documented or likely barriers to fish movement (e.g., impassable barriers to movement and unsuitable habitat). To be considered a single subpopulation, two-way passage at a barrier is required, otherwise bull trout upstream and downstream of a barrier are each considered a subpopulation. Because it is likely that fish above a barrier could pass downstream and mate with fish downstream, absolute reproductive isolation was not required to be considered a subpopulation.

We viewed metapopulation concepts (see Rieman and McIntyre 1993) as useful tools in evaluating bull trout, but, in querying biologists both within the Service and elsewhere, we found considerable variability in the definition of a metapopulation and the types of data suggestive of a metapopulation. Some biologists may consider a subpopulation, as defined by us, as a metapopulation if it has multiple spawning areas. Likewise, subpopulations without reciprocal interactions (i.e., individuals from upstream of a barrier may mingle with individuals downstream, but not vice versa) may be considered components of a metapopulation consisting of more than one subpopulation. Because little genetic and detailed movement information exists throughout bull trout range in the population segments addressed in the proposed rule, we believe that barriers to movement was an appropriate consideration for identifying subpopulations.

We reviewed preliminary new genetic and other biological data developed since the June 10, 1998 (63 FR 31693), proposed rule and determined that there is insufficient information available to further divide the Jarbidge River DPS into more than one subpopulation at this time. We believe that barriers to movement (including unsuitable habitat) were an appropriate consideration for identifying subpopulations. However, we believe that additional samples of genetic data for several tributaries are needed to accurately define bull trout population structure within the Jarbidge River basin. We still consider this DPS to contain one subpopulation based on the following: (1) conclusive genetic data are not available due to limited sample sizes from many of the tributaries; (2) bull trout in these tributaries are not

physically reproductively isolated; and (3) barriers to movement exist.

We did consider this new genetic information and potential metapopulation structure in assessing the overall level of threat to this DPS. Although the existence of a potential metapopulation may reduce the risk of extinction for this DPS as a whole, the potential presence of unique genetic material in each tributary further elevates their individual relative importance within the DPS. The genetic diversity of all bull trout within the basin will be fully considered in future management and recovery planning in the Jarbidge River basin. As more complete genetic data become available, management and recovery actions may change accordingly.

Issue 2: Numerous respondents provided conflicting comments on the status and trend of bull trout in the Jarbidge River DPS. Respondents variously claimed that population status is either stable, increasing, or uncertain. Some respondents questioned the amount and reliability of survey data and sampling methodologies. One respondent noted that we did not evaluate the listing criteria with objective and quantitative methods, making it difficult to interpret new information in a consistent manner. The reviewer also noted that, although quantitative data are lacking for many local populations of bull trout, sufficient information exists to design an inventory program to describe their current distribution, relative abundance, and population structure.

Our Response: A species may be determined to be an endangered or threatened species due to the five factors listed in section 4(a)(1) of the Act (see the ''Summary of Factors Affecting the Species'' section). The Act requires us to base listing determinations on the best available commercial and scientific information.

The listing process includes an opportunity for the public to comment and provide new information for us to evaluate and consider before making a final decision. Aside from previously cited studies and reports in the proposed and emergency rules, we reviewed and considered new information regarding bull trout distribution and abundance for the Jarbidge River basin from NDOW (G. Johnson, pers. comm. 1998a; T. Crawforth, *in litt.* 1998) and the SCCS (S. Werdon, pers. comm. 1998). Data are often not available to make statistically rigorous inferences about a species' status (e.g., abundance, trends in abundance, and distribution). Historical and recent collections have consisted of a few, sporadic presence and absence-type surveys occurring years or decades apart, each reflecting a single point-in-time. No regular, standardized, quantitative surveys designed to detect population trends of bull trout over a period of time, with statistical testing to qualify data accuracy, have been done.

NDOW provided us with population estimates for streams in the Jarbidge River basin which they derived by extrapolating the number of bull trout collected or observed (via single-pass electrofishing or snorkeling) within 30-m (100-ft) stations to kilometers (miles) of stream habitat. For example, one bull trout per station equaled an average population density of 85 bull trout/km (52.8 bull trout/mi) in a particular stream reach. We believe these extrapolations are inaccurate since past surveys confirm that bull trout exhibit patchy distributions, and comparisons of such population estimates among years does not provide an accurate analysis of population trends. We specifically requested additional information from NDOW during the comment period, however, they did not provide information on the actual number of bull trout collected or observed, the sizes or life-stages of the fish, or the specific locations where fish were collected during 1998 surveys. This information would be useful for comparison with prior distribution and abundance data. Nevertheless, we believe overall numbers in the subpopulation are low, and that concentrations of fish are found in only a few headwater streams where suitable habitat remains. Overall, we found sufficient evidence exists that demonstrates the Jarbidge River population segment is threatened by a variety of past and on-going threats and is likely to become endangered in the foreseeable future.

Issue 3: Numerous respondents provided conflicting comments on the validity and level of impact from threats identified in the proposed and emergency rules. Some respondents also suggested additional threats to this population.

Our Response: Threats identified in the proposed rule for the Jarbidge River DPS include habitat degradation from past and ongoing land management activities such as road construction and maintenance, mining, and livestock grazing. Additional threats we evaluated included non-native rainbow trout stocking, angling for other fish species, migration barriers, and future natural events. We emergency listed the population due to habitat destruction on the West Fork of the Jarbidge River associated with unauthorized road construction, and the substantial risk of continued loss of bull trout habitat through additional unauthorized road construction. We believe the threats identified in the proposed and emergency rules threaten the continued existence of bull trout in the Jarbidge River system. However, respondents may have misconstrued our perceived level of threat associated with certain activities, livestock grazing in particular. We recognize that existing levels of livestock grazing provide relatively minor impacts to bull trout habitat throughout the Jarbidge River basin; however, all potential threats must be considered during the listing process.

Many of the threats addressed in the proposed rule were associated with residual effects from historical activities within the basin (e.g., mining) and some respondents felt they were no longer valid threats. We recognize that overall watershed conditions have improved from early this century, but impacts to bull trout habitat from such historical activities still exist (e.g., elevated water temperatures from mine adit discharges). Road construction and associated maintenance activities, especially those occurring within riparian areas or adjacent to occupied bull trout streams, have documented impacts on bull trout habitat conditions and thereby threaten bull trout.

Issue 4: Many respondents provided comments regarding prior and ongoing beneficial management and/or habitat rehabilitation measures for bull trout throughout the Jarbidge River watershed. Some respondents also stated that overall watershed conditions in the Jarbidge River basin are improving.

Our Response: Section 4(b)(1)(A) of the Act, requires us to make listing decisions solely on the best scientific and commercial data available after conducting a review of the status of the species. The Act also instructs us to consider existing regulatory mechanisms, including efforts by State, local and other entities to protect a species, including conservation plans or practices.

We recognize that numerous individual conservation actions and restoration projects have been undertaken by the USFS, BLM, States, conservation groups, and other entities for bull trout in the Jarbidge River basin. For example, the Jarbidge Bull Trout Task Force, established in 1994, completed a project to restore access for bull trout to Jack Creek in 1997. However, no bull trout were found in Jack Creek in 1998. The USFS has fenced some springs to protect riparian

areas and improve water quality, and implemented reclamation of old mine sites. Idaho and Nevada State angler harvest regulations for bull trout have also become more restrictive.

We are required to evaluate the current status and existing threats to bull trout in the Jarbidge River DPS in making this final listing determination. Altogether, watershed habitat recovery and actions taken to date are encouraging for initiating long-term bull trout conservation. However, we have found no documentation of changes in abundance and distribution of bull trout as a result of such actions. For example, surveys conducted by biologists did not find bull trout in Jack Creek during 1997 or 1998 after the removal of a culvert barrier. Although impacts to bull trout from historical and on-going activities still exist, we recognize that overall watershed conditions in the Jarbidge River basin have improved, and we are now finalizing our listing of bull trout as threatened, rather than as endangered (see ''Issue 6'' for further discussion).

Issue 5: Several respondents opposed the Federal listing entirely, while others supported listing the population as threatened or endangered. One respondent commented that we proposed this listing as a result of a lawsuit, rather than sound scientific evidence, as required by the Act.

Our Response: Although the timing of recent listing actions were prompted by petitions and legal action, we previously had substantial information on biological vulnerability and threats on file to support preparation of a bull trout listing proposal, and the decision to list was based solely on scientific data and threats identified during the status review process.

Issue 6: One respondent stated that the August 11, 1998, emergency listing was ''inappropriate based on the level of threat'' posed by unauthorized road reconstruction activities to reopen 2.4 km (1.5 mi) of road.

Our Response: Road construction and maintenance activities, especially those occurring within riparian areas or adjacent to streams, have substantial documented adverse impacts on bull trout habitats. The threats to bull trout from the unauthorized road construction activities on the West Fork of the Jarbidge River include both direct and indirect impacts. These activities occurred on a migratory corridor during the period when bull trout migrate and spawn. Migratory or resident bull trout may have been stranded and killed when the entire river was diverted and the existing wetted channel was filled. Elko County did not use Best Management Practices (BMPs) to protect instream aquatic habitat during construction, and large quantities of sediment from the disturbed area settled out in the river immediately downstream, filling in pools and interstitial spaces. The sediment plume traveled at least 5.6 km (3.5 mi) downstream (B. Siminoe, pers. comm. 1998), within known bull trout habitats. The newly created channel provided minimal instream or overhead cover, with few resting areas for migratory or resident fish, and at low flow, would impede bull trout migrations. We also anticipated long-term residual impacts such as sedimentation from the new roadbed, floodplain vegetation destruction, slope cuts, and channel instability. Elko County expressed their intentions to continue road reconstruction despite being informed of various regulatory prohibitions. The threat of continued unauthorized road reconstruction without the use of BMPs was considered in the emergency listing.

Issue 7: Several respondents opposed the proposed listing of the Jarbidge River population segment and expressed concerns because of possible restrictions on local activities such as road construction, livestock grazing, and mining, which might impact local residents. One respondent stated that human use and bull trout conservation were ''mutually compatible goals.'' Another respondent stated that future actions needed for bull trout will be the same whether it is listed or remains a ''sensitive species.''

Our Response: Section 7(a)(2) of the Act, as amended, requires Federal agencies to insure that activities that they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. This could include Federal activities such as road construction, livestock grazing management, and mining permit issuance. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us. Portions of the Jarbidge River population segment occur on lands administered by the USFS and BLM. We have already consulted with these Federal agencies for several such projects in the Jarbidge River basin during the emergency listing period. Federal and private actions that we authorize through section 7 consultation or through section 10 of the Act (Habitat Conservation Plans) will not result in significant impacts to bull trout. Future impacts to local residents from this final listing determination are expected to be minimal when compared with the requirements of existing laws, regulations, and procedures. See ''Available Conservation Measures'' section for a list of actions that would not result in a take of this species.

Issue 8: A respondent noted that we are probably correct in stating that critical habitat is presently not determinable. They noted that consistent patterns in juvenile fish distribution, primarily with respect to stream elevation and water temperature, are useful in predicting patches of spawning and rearing habitats, which are probably sensitive to land use and important for the overall productivity of local populations. Several respondents encouraged us to consider several issues such as designating all historic and existing bull trout habitat as critical, protecting roadless and riparian areas, providing suitable water temperatures, limiting sediment delivery, and other habitat management activities.

Our Response: Section 3 of the Act defines critical habitat to include the specific areas within the geographic area occupied by the species at the time it is listed, on which are found those physical or biological features essential to the conservation of the species and which may require special management considerations or protection. Critical habitat may also include specific areas outside of the geographic area occupied by the species at the time it is listed, upon determination that such areas are essential for the conservation of the species. At this time, we find that critical habitat is not determinable for the Jarbidge River population segment. We appreciate the comments and believe that information on patterns in fish distribution will likely be useful in future critical habitat designations. This and other habitat considerations will also be important during development of the recovery plan.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, we determine that the Jarbidge River population segment of bull trout should be classified as a threatened species. We followed procedures found at section 4(a)(1) of the Act and regulations (50 CFR part 424) implementing the listing provisions of the Act. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Jarbidge River population segment of bull trout (*Salvelinus confluentus*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Land and water management activities that degrade and continue to threaten all of the bull trout population segments in the coterminous United States include dams, forest management practices, livestock grazing, agriculture and agricultural diversions, roads, and mining (Furniss *et al.* 1991; Meehan 1991; Nehlsen *et al.* 1991; Sedell and Everest 1991; Frissell 1993; McIntosh *et al.* 1994; MBTSG 1995a,b; 1996a,b).

Ongoing threats affecting bull trout habitat have maintained degraded conditions in the West Fork of the Jarbidge River (McNeill *et al.* 1997; J. Frederick, pers. comm. 1998a; Kathy Ramsey, USFS, pers. comm. 1998a). McNeill *et al.* (1997) indicates that at least 11.2 km (7 mi) of the West Fork of the Jarbidge River is affected by over a century of human activities such as road development and maintenance, mining, stream channelization and removal of large woody debris, residential development, and road and campground development on USFS lands. These activities removed the riparian canopy and much of the upland forest, reduced recruitment of large woody debris, and decreased channel stability (McNeill *et al.* 1997; K. Ramsey, *in litt.* 1997; J. Frederick, *in litt.* 1998a), which can lead to increased stream temperatures and bank erosion, and decreased long-term stream productivity. However, there is little documentation of increased stream temperatures and bank erosion and decreased stream productivity in the Jarbidge River system, but there is documentation of these kinds of degradation in other systems within the range of the bull trout.

Strict, cold water temperature requirements make bull trout particularly vulnerable to activities that warm spawning and rearing waters (Goetz 1989; Pratt 1992; Rieman and McIntyre 1993). Bull trout distribution in the Jarbidge River population segment is likely affected by elevated stream temperatures as a result of past forest practices. Although timber was historically removed from the Jarbidge River basin, forest management is not thought to be a major factor currently affecting bull trout habitat. However, existing habitat conditions still reflect the impacts of past harvesting practices.

Road construction and maintenance account for a majority of human-induced sediment loads to streams in forested areas (Shepard *et al.* 1984; Cederholm and Reid 1987; Furniss *et al.* 1991). Sedimentation affects streams by reducing pool depth, altering substrate composition, reducing interstitial space, and causing braiding of channels (Rieman and McIntyre 1993), which reduce carrying capacity. Sedimentation and the loss of pool-forming structures such as boulders and large wood reduces quantities of large, deep pools (USDA *et al.* 1993). Increasing stream basin road densities and associated effects have been shown to cause declines in bull trout (Quigley and Arbelbide 1997). Fewer bull trout are present within highly roaded basins, and bull trout are less likely to use highly roaded basins for spawning and rearing (Quigley and Arbelbide 1997).

Road densities within the Jarbidge Canyon are currently characterized as moderate (Ramsey 1998). Bull trout habitats in portions of the Jarbidge River basin are negatively affected by the presence and maintenance of roads, especially those immediately adjacent to or crossing occupied streams. The unauthorized road construction and associated alterations to the West Fork of the Jarbidge River within the Humboldt-Toiyabe National Forest by the Elko County (Nevada) Road Department prompted our emergency listing of the Jarbidge River DPS on August 11, 1998 (63 FR 42757). On July 22, 1998, a USFS employee observed a 5.6-km (3.5-mi) plume of sediment in the West Fork, which extended downstream from a site where Elko County was using heavy equipment to reconstruct part of a USFS road that washed out during a flood in 1995 (B. Siminoe, pers. comm. 1998). By the following day, Elko County road crews reconstructed approximately 275 m (300 yards (yds)) of road. To create the road, sections of river were loosely filled with material from adjacent hillsides and floodplain debris. The entire river flow was diverted into a straight channel created with a bulldozer and/or front-end loader. This channel lacked pools and had minimal cover, as mature trees adjacent to the new channel and other riparian vegetation were removed during channel construction. Sedimentation in the river downstream of the construction area was substantial. Federal agencies have implemented channel and floodplain habitat restoration and stabilization practices, but impacts from the road reconstruction to bull trout habitat will likely remain for years. Impacts from County road maintenance practices within the Jarbidge Canyon and elsewhere, such as surface grading and dumping fill directly into the river to stabilize the road also continue to negatively impact bull trout habitat.

Improper livestock grazing can promote streambank erosion and sedimentation, and limit the growth of riparian vegetation important for temperature control, streambank stability, fish cover, and detrital input. The steep terrain of the Jarbidge River basin is a deterrent to livestock grazing (J. Frederick, *in litt.* 1998a). Approximately 40 percent of public and private lands within the watershed are grazed, and ongoing livestock grazing is affecting about 3.2 km (2 mi) of the East Fork of the Jarbidge River and portions of Dave Creek and Jack Creek by increasing sediment input, removing riparian vegetation, and trampling banks (J. Frederick, pers. comm. 1998; G. Johnson, pers. comm. 1998b). However, the effects are localized, and livestock grazing is considered only a minor localized threat to bull trout habitat in the Jarbidge River basin.

Mining can degrade aquatic systems by generating sediment and heavy metals pollution, altering water pH levels, and changing stream channels and flow. Although not currently active, the effects of past mining in the Jarbidge River basin continue to adversely affect streams. Cyanide and/or mercury amalgamation mills were operated directly on the river, and spoil piles are still located adjacent to the river. These piles may be sources of sediment, acidity, and heavy metals. In addition, some old mine adits continue to discharge thermally-elevated groundwater. Water quality and temperatures associated with historical mining are still of concern.

Migration barriers have precluded natural recolonization by bull trout in the Jarbidge River basin into historically occupied sites. For example, an Elko County road culvert had prevented upstream movement of bull trout in Jack Creek, a tributary to the West Fork of the Jarbidge River, for approximately 17 years. Private and public funding was used to replace the culvert with a bridge in the fall of 1997 (J. Frederick, *in litt.* 1998b), but bull trout have yet to return to this stream. In addition to structural barriers, stream habitat conditions (e.g., water temperature) are likely barriers to bull trout movement within the Jarbidge River basin.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Declines in bull trout abundance have prompted States to institute restrictive fishing regulations and eliminate the harvest of bull trout in all waters in Idaho and Nevada. Similar restrictive regulations resulted in an increase in recent observations of adult bull trout in other areas of their range. However,

illegal harvest and incidental harvest still threaten bull trout.

Overutilization by angling is a concern for the Jarbidge River DPS of bull trout. Idaho prohibited harvest of bull trout in the Jarbidge River basin as of 1995 and has shortened fishing seasons and implemented a two trout limit. Until recently, Nevada allowed harvest of up to 10 trout per day, including bull trout. Anglers harvested an estimated 100 to 400 bull trout annually in the Jarbidge River basin (Johnson 1990; Pat Coffin, Service, pers. comm. 1994; P. Coffin, *in litt.* 1995). On the West Fork of the Jarbidge River in Nevada, fishing pressure is between 1,500 to 3,500 angler days per year; the East Fork annually receives 500 to 1,500 angler days (P. Coffin, pers. comm. 1996). Nevada State fishing regulations were recently amended to prohibit harvest of bull trout effective March 1, 1998 (Gene Weller, NDOW, *in litt.* 1997; G. Johnson, pers. comm. 1998b). In addition, Nevada reduced the daily and possession limits for other trout species in the Jarbidge River basin from 10 to 5 trout. We anticipate that these regulation changes will have a long-term positive effect on the conservation of bull trout. Inaccurate identification of bull trout by anglers could result in unauthorized harvest, further impacting already low population levels in this DPS. Even though State regulations now require all bull trout incidentally captured to be released immediately, some residual injuries or mortality are likely associated with capture and handling.

Overutilization for scientific purposes can be a concern for the Jarbidge River DPS of bull trout in the long-term. State regulations require a scientific collection permit to collect bull trout for educational and scientific purposes, but permit application and reporting requirements are minimal. Although many bull trout collected for scientific purposes may be documented as released alive (e.g., after taking fin clips for genetic analysis), collection techniques such as electrofishing, have documented short- and long-term harmful effects on salmonids, including mortality, physical damage, behavioral changes, and physiological disturbances. Other types of permitted scientific research (e.g., implantation of radio tags) may also result in the loss of individual bull trout.

C. Disease or Predation

Diseases affecting salmonids are likely to be present in the Jarbidge River population segment, but are not thought to be a factor threatening bull trout. Instead, interspecific interactions, including predation, likely negatively affect bull trout where non-native salmonids are introduced (Bond 1992; Donald and Alger 1993; Leary *et al.* 1993; MBTSG 1996a; J. Palmisano and V. Kaczynski, Northwest Forestry Resources Council, *in litt.* 1997).

The NDOW and IDFG have introduced non-native salmonids, including brook trout and hatchery rainbow trout within the range of bull trout in the Jarbidge River basin. However, brook trout stocked in Nevada failed to establish a self-sustaining population in the Jarbidge River system and the NDOW has not stocked brook trout since 1960 (Johnson and Weller 1994; G. Johnson, pers. comm. 1998b; T. Crawforth, *in litt.* 1998). In the West Fork of the Jarbidge River, only approximately 1 percent of the angler harvest from the 1960s through the 1980s was brook trout (Johnson 1990). Hatchery-reared rainbow trout have been stocked annually for decades in both Nevada and Idaho portions of the basin. IDFG stocked a total of approximately 52,783 hatchery rainbow trout in the East (75 percent) and West (25 percent) forks of the Jarbidge River from 1970 through 1989 (F. Partridge, *in litt.* 1998), but then discontinued their stocking program. NDOW's average annual catchable rainbow trout stocking numbers on the West Fork of the Jarbidge River were 4,242 fish in the1970s; 3,287 fish from 1980 to 1986; and 3,000 fish from 1987 to 1994 (except 1991) (Johnson and Weller 1994). NDOW's rainbow trout stocking program continued through 1998, however, NDOW will not stock rainbow trout in the Jarbidge River system in 1999 (Gene Weller, NDOW, pers. comm. 1999).

D. The Inadequacy of Existing Regulatory Mechanisms

The implementation and enforcement of existing Federal and State laws designed to conserve fishery resources, maintain water quality, and protect aquatic habitat have not been sufficient to prevent past and ongoing habitat degradation leading to bull trout declines and isolation. Regulatory mechanisms, including the National Forest Management Act, the Federal Land Policy and Management Act, the Public Rangelands Improvement Act, the Clean Water Act, the National Environmental Policy Act, Federal Power Act, State Endangered Species Acts and numerous State laws and regulations oversee an array of land and water management activities that affect bull trout and their habitat.

Regulatory mechanisms have been inadequate to protect bull trout habitat in the Jarbidge River basin. The Jarbidge Canyon Road parallels the West Fork of the Jarbidge River for much of its length and includes at least seven undersized bridges for the stream and floodplain. Maintenance of the road and bridges requires frequent channel and floodplain modifications that affect bull trout habitat, such as channelization; removal of riparian trees and beaver dams; and placement of rock, sediment, and concrete (McNeill *et al.* 1997; J. Frederick, pers. comm. 1998a; J. Frederick, *in litt.* 1998a). Periodic channelization in the Jarbidge River by unknown parties has occurred without oversight by the U.S. Army Corps of Engineers (COE) Clean Water Act section 404 regulatory program (Mary Jo Elpers, Service, pers. comm. 1998), and the USFS. Illegal road openings, such as the removal of road barriers and unauthorized grading, have also occurred within the Humboldt-Toiyabe National Forest.

In 1995, a flood event washed out a 2.4-km (1.5-mi) portion of the upper Jarbidge Canyon road, which led to the Jarbidge Wilderness Area boundary. The USFS conducted an environmental analysis on options for restoring access to the wilderness and initially planned to reconstruct the road in the floodplain, which would have included channelizing the river (McNeill *et al.* 1997). After an appeal, the USFS subsequently completed additional environmental analyses and issued an environmental assessment on June 29, 1998, with construction of a hillside trail as the preferred alternative.

On July 15, 1998, the Elko County Board of Commissioners passed a resolution directing the Elko County Road Department to reconstruct the road. On July 22, 1998, the USFS discovered that road construction was in progress and observed a 5.6-km (3.5-mi) plume of sediment downstream from the construction site. Prior to the issuance of cease and desist orders from the COE and Nevada Division of Environmental Protection (NDEP) on July 23, 1998, the County partially reconstructed approximately 275 m (300 yds) of road, created a new river channel, and diverted the flow of the river into the new channel. The County failed to implement BMPs and damaged or destroyed habitat within the river channel and floodplain. Elko County continues to publicly assert that it has jurisdiction over the road, but the Service, USFS, and Elko County are cooperatively exploring alternatives for public access in the area that would not adversely impact bull trout habitat.

The Nevada water temperature standards throughout the Jarbidge River

are 21° C (67° F) for May through October, and 7° C (45° F) for November through April, with less than 1° C (2° F) change for beneficial uses (NDEP, *in litt.* 1998). Water temperature standards for May through October exceed temperatures conducive to bull trout spawning, incubation, and rearing (Rieman and McIntyre 1993; Buchanan and Gregory 1997). Also, several old mines are releasing small quantities of warm groundwater and potential contaminants into the West Fork of the Jarbidge River.

In 1994, a local Bull Trout Task Force was formed to gather and share information on bull trout in the Jarbidge River basin. The task force is open to individuals from Elko and Owyhee counties, the towns of Jarbidge (Nevada) and Murphy Hot Springs (Idaho), road districts, private landowners, conservation organizations, NDOW, IDFG, BLM, USFS, and the Service. The task force was successful in 1997 in obtaining nearly $150,000 for replacing the Jack Creek culvert with a concrete bridge to facilitate bull trout passage into Jack Creek. However, the task force has not yet developed a comprehensive conservation plan addressing threats to bull trout in the Jarbidge River basin.

In 1995, the USFS amended its Forest Plan for the Humbolt National Forest to include the Inland Native Fish Strategy, which was developed by the USFS to provide an interim aquatic conservation strategy for inland native fish in eastern Oregon and Washington, Idaho, western Montana, and portions of Nevada. This strategy sets a ''no net loss'' objective and is guiding USFS actions within bull trout habitat in the Jarbidge River basin.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

Natural and human factors affecting the continued existence of bull trout include—previous introductions of non-native species that compete with bull trout; subpopulation habitat fragmentation and isolation caused by human activities; and the risk of local extirpations due to natural events such as droughts and floods.

Introductions of non-native species by the Federal government, State fish and game departments and unauthorized private parties across the range of bull trout has resulted in declines in abundance, local extirpations, and hybridization of bull trout (Bond 1992; Howell and Buchanan 1992; Leary *et al.* 1993; Donald and Alger 1993; Pratt and Huston 1993; MBTSG 1995b; Platts *et al.* 1995; John Palmisano and V. Kaczynski, *in litt.* 1997). Non-native species may exacerbate stresses on bull trout from habitat degradation, fragmentation, isolation, and species interactions (Rieman and McIntyre 1993). In some lakes and rivers, introduced species including rainbow trout and kokanee may benefit large adult bull trout by providing supplemental forage (Pratt 1992; MBTSG 1996a). However, the same introductions of game fish can negatively affect bull trout due to increased angling and subsequent incidental catch, illegal harvest of bull trout, and competition for space (Rode 1990; Bond 1992).

''The smaller and more isolated parts of the range (such as the bull trout remaining in the Jarbidge River basin) likely face a higher risk'' of extirpation by natural events relative to other bull trout populations (Rieman *et al.* 1997). One such risk factor is fire. In 1992, a 4,850 hectare (12,000 acre) fire (Coffeepot Fire) occurred at elevations up to 2,280 m (7,500 ft), in areas adjacent to the Bruneau River basin and a small portion of the Jarbidge River basin. Although the Coffeepot Fire did not affect areas currently occupied by bull trout, similar conditions likely exist in nearby areas where bull trout occur. Adverse effects of fire on bull trout habitat may include loss of riparian canopy, increased water temperature and sediment, loss of pools, mass wasting of soils, altered hydrologic regime and debris torrents. Fires large enough to eliminate one or two suspected spawning streams are more likely at higher elevations where bull trout are usually found in the Jarbidge River basin (J. Frederick, *in litt.* 1998a; K. Ramsey, pers. comm. 1998b).

Other natural risks have been recently documented. The Jarbidge River Watershed Analysis indicates that 65 percent of the upper West Fork of the Jarbidge River basin has a 45 percent or greater slope (McNeill *et al.* 1997). Debris from high spring runoff flows in the various high gradient side drainages such as Snowslide, Gorge, and Bonanza gulches provide the West Fork of the Jarbidge River with large volumes of angular rock material. This material has moved down the gulches at regular intervals, altering the river channel and damaging the Jarbidge Canyon road, culverts, and bridge crossings. Most of the river flows are derived from winter snowpack in the high mountain watershed, with peak flows corresponding with spring snowmelt, typically in May and June (McNeill *et al.* 1997). Rain-on-snow events earlier in the year (January and February) can cause extensive flooding problems and have the potential for mass-wasting, debris torrents, and earth slumps, which could threaten the existence of bull trout in the upper Jarbidge River and tributary streams. In June 1995, a rain-on-snow event triggered debris torrents from three of the high gradient tributaries to the Jarbidge River in the upper watershed (McNeill *et al.* 1997). The relationship between these catastrophic events and the history of intensive livestock grazing, burning to promote livestock forage, timber harvest and recent fire control in the Jarbidge River basin is unclear. Debris torrents may potentially affect the long-term viability of the Jarbidge River bull trout subpopulation.

We have carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by the Jarbidge River population segment of bull trout in determining to issue this rule. This population segment is characterized by low numbers of resident and migratory fish comprising a single, isolated subpopulation, within marginal habitat conditions for the species at the southern-most extremity of its range. The Jarbidge River DPS is vulnerable to extinction due to threats from activities such as road construction and maintenance, recreational fishing (intentional and unintentional harvest), rainbow trout stocking, mining, and grazing. Although some of these activities have been modified or discontinued in recent years, the lingering effects from these activities continue to affect water quality, contribute to channel and bank instability, and inhibit habitat and species recovery.

We emergency listed the Jarbidge River population segment of bull trout as endangered on August 11, 1998 (63 FR 42757), due to channel alteration associated with unauthorized road construction to repair the Jarbidge Canyon Road, damaged by a 1995 flood, on the West Fork of the Jarbidge River, and the substantial risk that such construction would continue. The construction activity had completely destroyed all aquatic habitat in this area, and introduced a significant amount of sediment into the river. Continued unauthorized reconstruction of the 2.4 km (1.5 mi) of the Jarbidge Canyon Road would have impacted 27 percent of the known occupied bull trout habitat in the West Fork Jarbidge River, which has among the highest reported densities of bull trout within the Jarbidge River DPS (Johnson and Weller 1994). The road construction would have also indirectly impacted an additional 21 km (13 mi) of bull trout habitat downstream of the construction site in the West Fork Jarbidge River, and potentially 45 km (28 mi) in the mainstem Jarbidge River.

Since the emergency listing of the Jarbidge River population segment, the USFS has restored some of the habitat. We have consulted with Federal agencies for several projects in the Jarbidge River basin such as old mining site reclamations, the creation of off-stream livestock watering sites, and fencing streams from livestock, that have helped reduce sedimentation into the Jarbidge River system. Following the issuance of a cease and desist order by the State of Nevada and COE to Elko County, the USFS hired stream restoration specialists to restore the damaged portion of the West Fork Jarbidge River. The specialists designed a plan to stabilize and enhance the river channel in its new location. Work crews removed the fine sediment in the river created by the road construction and placed large material such as woody debris, large rocks and boulders back into the river for bull trout habitat. The fine sediment removed from the river was used to repair floodplain damage upslope, and the streambanks were partially revegetated. The USFS will implement additional revegetation and erosion control measures in 1999. These restoration actions have helped to ameliorate some of the effects of the road construction on bull trout habitat. A residual, inaccessible road still exists, but the Service, USFS, and Elko County are cooperatively looking at alternatives for public access in the area that would not adversely impact bull trout habitat.

We have carefully assessed the best scientific and commercial information available regarding past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, we have determined that the Jarbidge River population segment of bull trout should be listed as threatened. We emergency listed this species as endangered due to the threats posed by road construction in the West Fork of the Jarbidge River. Because of the restoration activity that has occurred in the West Fork of the Jarbidge River to repair the road construction damage, we believe this distinct population segment fits the definition of threatened as defined by the Act. Therefore, the action is to list the bull trout as threatened in the Jarbidge River population segment.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific area within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. ''Conservation'' means the use of all methods and procedures needed to bring the species to the point at which listing under the Act is no longer necessary.

Section 4(a)(3) of the Act, and implementing regulations (50 CFR 424.12) require that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. Our regulations (50 CFR 424.12(a)) state that critical habitat is not determinable if information sufficient to perform required analysis of impacts of the designation is lacking or if the biological needs of the species are not sufficiently well known to permit identification of an area as critical habitat. Section 4(b)(2) of the Act requires us to consider economic and other relevant impacts of designating a particular area as critical habitat on the basis of the best scientific data available. The Secretary may exclude any area from critical habitat if he determines that the benefits of such exclusion outweigh the conservation benefits, unless to do such would result in the extinction of the species.

We find that the designation of critical habitat is not determinable for this distinct population segment based on the best available information. When a ''not determinable'' finding is made, we must, within 2 years of the publication date of the original proposed rule, designate critical habitat, unless the designation is found to be not prudent. We reached a ''not determinable'' critical habitat finding in the proposed rule and we specifically requested comments on this issue. While we received a number of comments advocating critical habitat designation, none of these comments provided information that added to our ability to determine critical habitat. Additionally, we did not obtain any new information regarding specific physical and biological features essential for bull trout in the Jarbidge River bull trout population segment during the open comment period including the five public hearings. The biological needs of bull trout in this population segment are not sufficiently well known to permit identification of areas as critical habitat. Insufficient information is available on the number of individuals or spawning reaches required to support viable subpopulations throughout the distinct population segment. In addition, we have not identified the extent of habitat required and specific management measures needed for recovery of this fish. This information is considered essential for determining critical habitat for this population segment. Therefore, we find that designation of critical habitat for the Jarbidge River population segment is not determinable at this time. We will protect bull trout habitat through enforcement of take prohibitions under section 9 of the Act, through the recovery process, through section 7 consultations to determine whether Federal actions are likely to jeopardize the continued existence of the species, and through the section 10 process for activities on non-Federal lands with no Federal nexus.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with us.

The Jarbidge River bull trout population segment occurs on lands administered by the USFS and the BLM, and on various State-owned properties in Idaho, and on private lands. Federal agency actions that may require consultation as described in the preceding paragraph include COE involvement in projects such as the construction of roads and bridges, and the permitting of wetland filling and

dredging projects subject to section 404 of the Clean Water Act (33 U.S.C. 1344); USFS and BLM timber, recreation, mining, and grazing management activities; Environmental Protection Agency authorized discharges under the National Pollutant Discharge System of the Clean Water Act; and U.S. Housing and Urban Development projects.

The Act and its implementing regulations found at 50 CFR 17.31 set forth a series of general trade prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to our agents and State conservation agencies.

We may issue permits under section 10(a)(1) of the Act, to carry out otherwise prohibited activities involving threatened wildlife under certain circumstances. Regulations governing permits are at 50 CFR 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Permits are also available for zoological exhibition, educational purposes, or special purposes consistent with the purpose of the Act. You may address your requests for copies of the regulations concerning listed plants and animals, and general inquiries regarding prohibitions and permits, to the U.S. Fish and Wildlife Service, Ecological Services, Endangered Species Permits, 911 N.E. 11th Avenue, Portland, Oregon, 97232–4181 (telephone 503/231–2063; facsimile 503/231–6243).

It is our policy, published in the **Federal Register** on July 1, 1994 (59 FR 34272), to identify to the maximum extent practicable at the time a species is listed those activities that would or would not constitute a violation of section 9 of the Act. The intent of this policy is to increase public awareness of the effect of this listing on proposed and ongoing activities within the species' range. We believe the following actions would not be likely to result in a violation of section 9, provided the activities are carried out in accordance with any existing regulations and permit requirements:

(1) Actions that may affect bull trout in the Jarbidge River population segment and are authorized, funded or carried out by a Federal agency when the action is conducted in accordance with an incidental take statement issued by us pursuant to section 7 of the Act;

(2) Incidental catch and immediate release of Jarbidge River population segment bull trout in accordance with applicable State fish and wildlife conservation laws and regulations in effect on April 8, 1999 (see Special Rule section);

(3) State, local and other activities approved by us under section 4(d) and section 10(a)(1) of the Act.

With respect to the Jarbidge River bull trout population segment, the following actions likely would be considered a violation of section 9:

(1) Take of bull trout without a permit, which includes harassing, harming, pursuing, hunting, shooting, wounding, killing, trapping, capturing, or collecting, or attempting any of these actions, except in accordance with applicable State fish and wildlife conservation laws and regulations within the Jarbidge River bull trout population segment;

(2) To possess, sell, deliver, carry, transport, or ship illegally taken bull trout;

(3) Unauthorized interstate and foreign commerce (commerce across State or international boundaries) and import/export of bull trout (as discussed earlier in this section);

(4) Introduction of non-native fish species that compete or hybridize with, or prey on bull trout;

(5) Destruction or alteration of bull trout habitat by dredging, channelization, diversion, in-stream vehicle operation or rock removal, or other activities that result in the destruction or degradation of cover, channel stability, substrate composition, temperature, and migratory corridors used by the species for foraging, cover, migration, and spawning;

(6) Discharges or dumping of toxic chemicals, silt, or other pollutants into waters supporting bull trout that result in death or injury of the species; and

(7) Destruction or alteration of riparian habitat and adjoining uplands of waters supporting bull trout by recreational activities, timber harvest, grazing, mining, hydropower development, or other developmental activities that result in destruction or degradation of cover, channel stability, substrate composition, temperature, and migratory corridors used by the species for foraging, cover, migration, and spawning.

We will review other activities not identified above on a case-by-case basis to determine if a violation of section 9 of the Act may be likely to result from such activity. We do not consider these lists to be exhaustive and provide them as information to the public.

Questions regarding whether specific activities may constitute a violation of section 9 should be directed to the Field Supervisor of our Nevada Fish and Wildlife Office (see **ADDRESSES** section) for the Jarbidge River population segment.

Special Rule

Section 4(d) of the Act provides authority for us to promulgate special rules for threatened species that would relax specific prohibitions against taking. The final special rule included with this final listing allows for take of bull trout within the Jarbidge River DPS associated with certain activities for a period of 24 months. The special rule allows take for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. The special rule also allows take that is incidental to recreational fishing activities, when conducted in accordance with State regulations, and provided that any bull trout caught are immediately returned to the stream. This special rule shall be in effect until April 9, 2001. At that time, all take prohibitions of the Act will be reinstated for the Jarbidge River population segment of the bull trout.

We believe that existing angling regulations and other bull trout conservation measures developed independently by the States (see following paragraphs) are adequate to provide continued short-term conservation of bull trout in the Jarbidge River DPS. However, we believe that the development by the States of Idaho and Nevada of a management and conservation plan covering the entire range of bull trout in the Jarbidge River DPS with the objective of recovery and eventual delisting of this DPS would most effectively protect bull trout from excessive taking, and thereby ensure the future continuation of State sport fisheries programs in the Jarbidge River system. Therefore, it is our intent to propose, in the near future, another special rule that would provide the States of Idaho and Nevada the opportunity to develop a management and conservation plan for the Jarbidge River population segment of the bull trout that, if approved, could extend the exceptions to the take prohibitions provided by the special rule included in

this final listing. Such a plan would be developed with public input (e.g., Jarbidge Bull Trout Task Force), peer-reviewed by the scientific community, and presented to the appropriate State Fish and Game/Wildlife Commissions. We would provide public notice in the **Federal Register** upon our approval of the plan.

We find that State angling regulations have become more restrictive in an attempt to protect bull trout in the Jarbidge River DPS in Idaho and Nevada. Bull trout harvest prohibitions and reduced daily/possession limits on other trout within the basin are currently in place throughout the Jarbidge River system, and the fishing season has been shortened in Idaho. The States, to varying extent, have also initiated public/angler awareness and education efforts relative to bull trout status, biology, and identification. IDFG has not stocked rainbow trout in the Jarbidge River system since 1989. NDOW will not stock rainbow trout in the Jarbidge River system in 1999 (Gene Weller, NDOW, pers. comm. 1999).

IDFG has prepared a State-wide Bull Trout Conservation Program Plan (Hutchinson *et al.* 1998). In the plan, IDFG commits to 1) ensuring that management, research, hatchery, and scientific permitting programs are consistent with the Endangered Species Act, and 2) implementing bull trout recovery actions in Idaho.

NDOW has a Bull Trout Species Management Plan that recommends management alternatives to ensure that human activities will not jeopardize the future of bull trout in Nevada (Johnson 1990). The recommended program identifies actions including bull trout population and habitat inventories, life history research, and potential population reestablishment; State involvement in watershed land use planning; angler harvest impact assessment; official State sensitive species designation for regulatory protection; and non-native fish stocking evaluation/prohibition and potential non-native fish eradications. NDOW scheduled these activities for implementation from 1991 to 2000, but many have yet to be initiated or fully implemented.

In the special rule for fishes we are making a minor editorial correction in the paragraph designations.

Paperwork Reduction Act for the Listing

This listing rule does not contain any new collections of information other than those already approved under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and assigned Office of Management and Budget clearance number 1018–0094. 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. For additional information concerning permit and associated requirements for threatened species, see 50 CFR 17.32.

Required Determinations for the Special Rule

Regulatory Planning and Review, Regulatory Flexibility Act, and Small Business Regulatory Enforcement Fairness Act

The special rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government. Therefore, a cost-benefit and full economic analysis is not required. Section 4(d) of the Act provides authority for us to promulgate special rules for threatened species that would relax the prohibition against taking. We find that State angling regulations have become more restrictive in an attempt to protect bull trout in the Jarbidge River in Idaho and Nevada. Bull trout harvest prohibitions and reduced daily/possession limits on other trout within the basin are currently in place throughout the Jarbidge River system, and the fishing season has been shortened in Idaho. The States, to varying extent, have also initiated public/angler awareness and education efforts relative to bull trout status, biology, and identification. We believe that existing angling regulations and other bull trout conservation measures developed independently by the States are adequate to provide continued short-term conservation of bull trout in the Jarbidge River. As a result, this special rule will allow recreational angling to take place in the Jarbidge River during the next 24 months under existing State regulations. The economic effects discussion addresses only the economic benefits that will accrue to the anglers who can continue to fish in the Jarbidge River.

This special rule will remove the threat of a take prohibition under section 9 of the Act and allow continued angling opportunities in Idaho and Nevada under existing State regulations. Data on the number of days of fishing under new State regulations are available for the East and West forks of the Jarbidge River in Nevada. We used these data to calculate angling days per river mile which was applied to the river segment in Idaho. Because of the lack of definitive data, we decided to do a worst case analysis. We analyzed the economic loss in angling satisfaction, measured as consumer surplus, if all fishing were prohibited in the Jarbidge River. Since there are substitute sites nearby where fishing is available, this measure of consumer surplus is a conservative estimate and would be a maximum estimate. The range of angling days in Nevada is from 2,000 to 5,000 (figures combine angler days in the East and West Fork of the Jarbidge River) annually. We estimate for Idaho a range of 3,600 to 9,000 angling days per year. A consumer surplus of $19.35 (1999 $) per day for trout fishing in Idaho and Nevada results in a range of benefits of $109,000 to $271,000 per year. The consumer surplus is a measurement of the satisfaction that an angler gets from pursuing the sport of fishing. Since this special rule will only be in place for 24 months, there is little need for discounting. Consequently, this special rule will have a small economic benefit on the United States economy, and even in the worst case, will not have an annual effect of $100 million or more for a significant rule making action.

b. This special rule will not create inconsistencies with other agencies' actions. The special rule allows for continued angling opportunities in accordance with existing State regulations.

c. This special rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This special rule does not affect entitlement programs.

d. This special rule will not raise novel legal or policy issues. There is no indication that allowing for continued angling opportunities in accordance with existing State regulations would raise legal, policy, or any other issues.

The Department of the Interior certifies that the final rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). A Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required. No individual small industry within the United States will be significantly affected by allowing for continued angling opportunities in accordance with existing State regulations in the Jarbidge River for 24 months.

The special rule is not a major rule under 5 U.S.C. 801 *et seq.*, the Small

Business Regulatory Enforcement Fairness Act. This special rule:

a. Does not have an annual effect on the economy of $100 million or more. Trout fishing in the Jarbidge River basin generates, on average, expenditures by local anglers ranging from $168 thousand to $519 thousand per year. Consequently, the maximum benefit of this rule for local sales of equipment and supplies is no more than $519 thousand per year and most likely smaller because all fishing would not cease in the area even if the Jarbidge River were closed to fishing. The availability of numerous substitute sites would keep anglers spending at a level probably close to past levels.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This special rule allows the continuation of fishing in the Jarbidge River and, therefore, allows for the usual sale of equipment and supplies by local businesses. This special rule will not affect the supply or demand for angling opportunities in southern Idaho or northern Nevada and therefore should not affect prices for fishing equipment and supplies, or the retailers that sell equipment.

c. Does not have significant adverse effects on competition, employment, investment productivity, innovation, or the ability of United States based enterprises to compete with foreign-based enterprises. The recreational spending of a small number of affected anglers, ranging from just over 600 to slightly over 1,500 anglers, will have only a small beneficial economic effect on the sportfish industry.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*):

a. This special rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required.

b. This special rule will not produce a Federal mandate of $100 million or greater in any year; that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings Implication

We have determined that this special rule has no potential takings of private property implications as defined by Executive Order 12630. The special rule would not restrict, limit, or affect property rights protected by the Constitution.

Federalism

This special rule will not have substantial direct effects on the States, in their relationship between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government. Therefore, in accordance with Executive Order 12612, we have determined that this special rule does not have sufficient federalism implications to warrant a Federalism Assessment.

Civil Justice Reform

The Department of the Interior has determined that this special rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988.

National Environmental Policy Act

We have determined that an Environmental Assessment and Environmental Impact Statement, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references cited herein is available upon request from the Nevada Fish and Wildlife Office (see **ADDRESSES** section).

Author. The primary author of this proposed rule is Selena Werdon, Nevada Fish and Wildlife Office, Reno, Nevada.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
FISHES							
*	*	*	*	*	*		*
Trout, bull	*Salvelinus confluentus*.	U.S.A. (Pacific NW), Canada (NW Territories).	Jarbidge R. Basin (U.S.A.—ID, NV).	T	659	NA	17.44(x)
*	*	*	*	*	*		*

3. Amend § 17.44 by redesignating paragraph (v) bull trout as paragraph (w).

4. Amend § 17.44 by adding paragraph (x) to read as follows:

§ 17.44 Special rules—fishes.

* * * * *

(x) Bull trout (*Salvelinus confluentus*), Jarbidge River population segment.

(1) Prohibitions. Except as noted in paragraph (x)(2) of this section, all prohibitions of 50 CFR 17.31 and exemptions of 50 CFR 17.32 apply to the bull trout in the Jarbidge River

population segment within the United States.

(2) Exceptions. No person may take this species, except in the following instances in accordance with applicable State fish and wildlife conservation laws and regulations relevant to protection of bull trout in effect on April 8, 1999.

(i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act;

(ii) Incidental to State-permitted recreational fishing activities, provided that any bull trout caught are immediately returned to the stream.

(iii) The exceptions in paragraphs (x)(2) (i) and (ii) of this section will be in effect until April 9, 2001. At that time, all take prohibitions of the Act will be reinstated for the Jarbidge River population segment unless exceptions to take prohibitions are otherwise provided through a subsequent special rule.

(3) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species is also a violation of the Endangered Species Act.

(4) No person may possess, sell, deliver, carry, transport, ship, import, or export, any means whatsoever, any such species taken in violation of this section or in violation of applicable State fish and conservation laws and regulations.

(5) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (x)(2) through (4) of this section.

Dated: April 5, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–8850 Filed 4–7–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980429110–8110–01; I.D. 032499B]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Adjustments From Cape Falcon, OR, to Point Pitas, CA

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

ACTION: Inseason adjustments; request for comments.

SUMMARY: NMFS announces that a commercial salmon test fishery for all salmon except coho in the areas from Point Pillar (37°29'48'' N. lat.) to Point Pigeon (37°10'54'' N. lat.) and from Point Piedras Blancas (35°40'00'' N. lat.) to Point Pitas (34°19'02'' N. lat.), CA, that was tentatively scheduled to open April 2, 1999, will open April 14, 1999, run 3 days open and 4 days closed, and continue through the earlier of April 28, 1999, or the attainment of chinook quotas of 3,000 and 5,000 respectively. NMFS also announces that the commercial and recreational fisheries for all salmon except coho, in the areas from Cape Falcon to Humbug Mountain, OR, will open April 1, 1999, and continue through dates to be determined in the 1999 management measures for 1999 ocean salmon fisheries in the exclusive economic zone (EEZ). This action is necessary to conform to the 1998 announcement of management measures for 1999 salmon seasons opening earlier than May 1, 1999, and is intended to ensure conservation of chinook salmon.

DATES: Effective April 1, 1999, until the effective date of the 1999 management measures, which will be published in the **Federal Register** for the west coast salmon fisheries. Comments will be accepted through April 22, 1999.

ADDRESSES: Comments may be mailed to William Stelle, Jr., Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way NE., Bldg. 1, Seattle, WA 98115–0070; or William Hogarth, Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: William Robinson, 206–526–6140, or Svein Fougner, 562–980–4030.

SUPPLEMENTARY INFORMATION: The 1999 April test fishery off southern California is a continuation of the test fishery initiated in April 1997, and is intended to evaluate the contribution of Sacramento River winter chinook and Central Valley spring chinook to the commercial catch off Morro Bay and Santa Barbara during the month of April. Sacramento River winter chinook are listed under the Federal and California State endangered species acts and Central Valley spring chinook are listed under the state act and proposed under the Federal act.

In the 1998 management measures for 1999 ocean salmon fisheries in the EEZ opening earlier than May 1, 1999 (63 FR 24973, May 6, 1998), NMFS announced that an experimental fishery would open between Point Sur and the U.S.-Mexican border for all salmon except coho, from April 2, 1999, through the earlier of April 29, 1999, or achievement of a chinook quota. Details regarding the season, the areas, the chinook quota, and participating vessels would be determined through an inseason recommendation of the Pacific Fishery Management Council (Council) at the November 1998 meeting.

At the November meeting, the Council decided to delay the final recommendation until its March meeting when there would be more information available about the status of the stocks in 1999. At the March 1999 meeting, the Council made its inseason recommendation to open the April test fishery in two locations: the area from Point Pillar to Point Pigeon and from Point Piedras Blancas to Point Pitas, CA. The Council also recommended adding an additional test area between Point Pillar and Point Pigeon to provide comparative data from the same year in a different area. In evaluating the effect of the test fishery to determine whether the overall impact of the proposed options for 1999 ocean fisheries on Sacramento River winter chinook will achieve NMFS consultation standards under the Endangered Species Act, the Council considered the results of the 1997 April test fishery from Point Lopez to Point Mugu and substantially increased its estimates of the incidental take of winter chinook associated with the fishery relative to the estimate used in evaluating the 1997 April test fishery.

The test fishery will be conducted from Point Pillar to Point Pigeon, for all salmon except coho, with a 3,000 chinook quota; from Point Piedras Blancas to Point Conception (34°27'00'' N. lat.), for all salmon except coho, with a 2,500 chinook quota; and Point Conception to Point Pitas, for all salmon except coho, with a 2,500 chinook quota. The subareas and subquotas between Point Piedras Blancas and Point Pitas are intended to ensure that samples are collected uniformly over the entire area. The season will open 0001 hours local time, April 14, 1999, and operate on a schedule of 3 days open and 4 days closed, through the earlier of 2359 hours local time April 28, 1999, or attainment of chinook

quotas. All fish must be landed within 24 hours of closure and there is a daily possession and landing limit of 30 fish/day. The fishery will be open April 14–16, will be closed April 17–20, will be reopened April 21–23, will be closed April 24–27, and will be reopened April 28. The minimum size limit is 26 inches (66.0 cm) total length; all fish must be landed in the same area in which they were caught; all fish must be landed daily to ensure good tissue quality needed for genetic sampling; and all fish must be offloaded within 12 hours of reaching port and documented with a California Department of Fish and Game (CDFG) landing receipt (no transportation tickets). The southernmost boundary of the fishery is a line between Point Pitas and the eastern end of Anacapa Island (34°00'56'' N. lat.); all other boundaries run due west of the referenced points to the outer limit of the EEZ. Landing limits and days open may be adjusted inseason to meet the requirements of data collection. If landing limits or open days are changed or the quota is attained in any area before April 28, 1999, the closure of the area and any other inseason action will be announced on the NMFS hot line and in a notice to mariners.

In the 1998 annual management measures for ocean salmon fisheries (63 FR 24973, May 6, 1998), inseason management guidance was provided to NMFS such that the Council would consider at the March 1999 meeting a recommendation to open commercial and recreational seasons for all salmon except coho in areas off Oregon. Due to the timing of the March and April Council meetings, where the major 1999 salmon seasons are developed, such action would be necessary to implement the opening of these seasons prior to May 1, 1999. In the 1998 management measures for 1999 ocean salmon fisheries, NMFS announced that the recreational fishery would not open until May 1, 1999, between Cape Falcon and Humbug Mountain, OR, for all salmon except coho, unless opened following an inseason recommendation of the Council at the March 1999 meeting. In addition, the Council could also consider inseason modifications to open or modify commercial fisheries off Oregon, for all salmon except coho, prior to May 1, 1999.

At the March 1999 meeting, the Council made its inseason recommendations to open the recreational and commercial fisheries, for all salmon except coho, from Cape Falcon to Humbug Mountain, OR, on April 1, 1999. The closing dates for both fisheries will be determined at the April 1999 meeting when the entire 1999 management measures for the 1999 ocean salmon fisheries are finalized.

The recreational fishery for all salmon except coho, from Cape Falcon to Humbug Mountain, OR, opens on April 1, 1999. The daily possession limit is two fish per day, with no more than six fish retained in 7 consecutive days. The minimum size limit is 20 inches (50.8 cm). Allowed gear is artificial lures and plugs of any size, or bait no less than 6 inches (15.2 cm) long (excluding hooks and swivels). All gear must have no more than two single point, single shank barbless hooks. Divers are prohibited and flashers may only be used with downriggers. Oregon State regulations describe a closure at the mouth of Tillamook Bay.

The commercial fishery for all salmon except coho, from Cape Falcon to Humbug Mountain, OR, opens on April 1, 1999. No more than four spreads are allowed per line. The minimum size limit is 26 inches (66.0 cm) (19.5 in (49.5 cm) head-off). Chinook not less than 26 inches (66.0 cm) (19.5 inches (49.5 cm) head-off) taken in open seasons south of Cape Falcon may be landed north of Cape Falcon only when the season is closed north of Cape Falcon. Oregon state regulations describe a closure at the mouth of Tillamook Bay.

The Regional Administrator consulted with representatives of the Council, Washington Department of Fish and Wildlife, Oregon Department of Fish and Wildlife, and the CDFG regarding these adjustments. The State of California will manage test commercial fisheries in state waters adjacent to these areas of the exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures at 50 CFR 660.411, actual notice to fishermen of these actions will be given prior to 0001 hours local time, April 1, 1999, by telephone hotline number 206–526–6667 or 800–662–9825 and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Because of the need for immediate action, NMFS has determined that good cause exists for this document to be issued without affording a prior opportunity for public comment. This document does not apply to other fisheries that may be operating in other areas.

Classification

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under E.O. 12866.

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

Dated: April 2, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–8766 Filed 4–7–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 040599A]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal allowance of Atka mackerel total allowable catch (TAC) specified for the Central Aleutian District. NMFS is also opening fishing with trawl gear in Steller sea lion critical habitat in the Central Aleutian District for species for which directed fisheries are open.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 5, 1999, until 1200 hrs, A.l.t, September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications (64 FR 12103, March 11, 1999) established the first seasonal allowance, the period January 1, 1999 through April 15, 1999, of Atka mackerel TAC specified for the Central Aleutian District as 10,360 metric tons (mt).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region,

NMFS (Regional Administrator), has determined that the first seasonal allowance of Atka mackerel TAC specified for the Central Aleutian District has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 10,000 mt, and is setting aside the remaining 360 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance soon will be reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

On March 31, 1999, NMFS prohibited trawling within Steller sea lion critical habitat in the Central Aleutian District because the 1999 critical habitat percentage of the first seasonal allowance of Atka mackerel allocated to the Central Aleutian District had been reached (64 FR 16362, April 5, 1999). Regulations at 679.22(a)(8)(iii)(C) authorize opening Steller sea lion critical habitat in the Central Aleutian District to fishing with trawl gear after NMFS closes Atka mackerel to directed fishing within that district. NMFS, therefore, is opening critical habitat in the Central Aleutian District to fishing with trawl gear for species open to directed fishing.

Classification

This action responds to the best available information recently attained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 first seasonal allowance of Atka mackerel specified for the Central Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: April 5, 1999.

Bruce Morehead,

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

[FR Doc. 99–8759 Filed 4–5–99; 2:10 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 67
Thursday, April 8, 1999

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 JUSTICE

8 CFR Part 2

28 CFR Part 65

[INS No. 1924–98; AG Order No. 2215–99]

RIN 1115–AF20

Powers of the Attorney General to Authorize State or Local Law Enforcement Officers To Enforce Immigration Law During a Mass Influx of Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule proposes to implement section 103(a)(8) of the Immigration and Nationality Act (the Act), which permits the Attorney General to authorize any State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform certain functions related to the enforcement of the immigration laws during a period of mass influx of aliens. This rule provides for a cooperative process by which State or local governments can agree to place authorized State or local law enforcement officer(s) under the direction of the Immigration and Naturalization Service (INS) in enforcing immigration laws, whenever the Attorney General determines that such assistance is necessary during a mass influx of aliens.

This rule also allows the Commissioner of the INS to enter into advance written ''contingency'' agreements with State and local law enforcement officials. The written agreements will explain the terms and conditions (including the reimbursement of expenses) under which State or local law enforcement officers an enforce immigration laws during a mass influx of aliens. The rule also ensures that appropriate notifications are made to Congress and the Administration. This rule is necessary to ensure that the INS can respond in an expeditious manner during a mass influx of aliens.

Finally, the rule ensures that the performance of duties under the special authorization is consistent with civil rights protections.

DATES: Written comments must be submitted on or before June 7, 1999.

ADDRESSES: Please submit written comments, in triplicate, to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW, Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1924–98 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: George M. Waldroup, Special Assistant, Field Operations, Immigration and Naturalization Service, 425 I Street, NW, Room 7228, Washington, DC 20536, telephone (202) 305–7873.

SUPPLEMENTARY INFORMATION:

Background

Section 372 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (Pub. L. 104–208, 110 Stat. 3009), added section 103(a)(8) of the Act (8 U.S.C. 1103(a)(8)) to permit the Attorney General to authorize any State or local law enforcement officer, with the consent of the head of the department, agency, or establishment under whose jurisdiction the individual is serving, to perform or exercise any of the powers, privileges, or duties conferred or imposed by the Act or implementing regulations upon officers or employees of the INS during a period of a mass influx of aliens. Under section 103(a)(8) of the Act, such Attorney General authorization to State or local law enforcement officers can occur only in the event that the Attorney General determines that ''an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, presents urgent circumstances requiring an immediate Federal response.'' Any authority to enforce immigration laws that is given to State or local law enforcement officers under section 103(a)(8) of the Act can be exercised only during such a mass influx of aliens, as determined by the Attorney General. The implementation of this proposed rule will facilitate an expeditious and coordinated response during a mass influx of aliens, by enabling the Attorney General to draw upon the voluntary assistance of State and local resources.

Explanation of Changes

This rule implements the intent of section 103(a)(8) of the Act by providing a mechanism by which a trained cadre of State and/or local law enforcement officers will be available to enhance the Federal Government's ability to field an immediate and effective response to a mass influx of aliens.

State/local law enforcement officers cannot perform any functions of an INS officer or employee pursuant to 8 U.S.C. 1103(a)(8) and under the provisions of this rule until they successfully complete training prescribed by the INS in basic immigration law, enforcement fundamentals, civil rights law, and sensitivity and cultural awareness issues. INS will provide all necessary training materials and will conduct training sessions to designated officers at sites within their jurisdictional or commuting areas when possible. The employing State/local law enforcement agency, department, or establishment will be required to fund its officers' transportation, lodging, and subsistence costs as may be required.

This rule is an amendment to the existing regulations of the Department of Justice relating to the Immigration Emergency Fund. By tying reimbursement for actual expenses incurred to the Immigration Emergency Fund, this rule also seeks to assure State and local law enforcement agencies that they will not bear undue increased operational expenditures. However, this rule provides no guarantee of reimbursement for actual expenses incurred in excess of the balance of uncommitted funds in the Immigration Emergency Fund. Without additional appropriations to the Immigration Emergency Fund, any reimbursement would be contingent on supplemental appropriations and/or other funding that may be available. Execution of advance ''contingency'' agreements will expedite subsequent action by the Attorney General to give authority to State and/or local law enforcement officers to enforce immigration laws and will facilitate reimbursement of actual

expenditures in support of a Federal response to a mass influx of aliens, pursuant to existing financial requirements such as Congressional notification and recordkeeping.

Regulatory Flexibility Act

The Attorney General, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant impact on a substantial number of small entities because of the following factors: (1) INS anticipates that participation in written agreements executed with State and/or local law enforcement agencies under section 103(a)(8) of the Act and this rule will be limited to those State or local law enforcement agencies whose jurisdiction is along the southern land border or the coastline of South Florida and who agree to provide assistance in a Federal response to a mass influx of aliens into the United States; (2) participation by State and/or local law enforcement agencies is voluntary and no State or local law enforcement agency outside the area of a mass influx of aliens would be affected by implementation of this rule; (3) this rule believes undue financial burdens on participating law enforcement agencies by providing for reimbursement of actual expenses incurred in direct support of a Federal response to a mass influx of aliens; and, (4) it is anticipated that delegation of authority to State/local law enforcement officers to enforce immigration law under the provisions of this rule will be infrequent and will occur only during times of an actual or imminent mass influx of aliens into the United States.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined in the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in cost or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

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

Executive Order 12612

The regulation adopted herein will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among various levels of government. This rule provides for reimbursement through the Immigration Emergency Fund (contingent upon availability of such funds) and/or supplemental appropriation, of actual expenditures incurred by State/local law enforcement agencies whose law enforcement officers are supporting a Federal response to an actual or imminent mass influx of aliens. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988: Civil Justice Reform

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

Paperwork Reduction Act

As contained in this rule under 28 CFR 65.85(e), the Attorney General will consider all applications from State or local governments for reimbursement of actual expenses incurred in direct support of a Federal response to a mass influx of aliens, until the maximum amount of money in the Immigration Emergency Fund has been expended. The information that must be included in the application for reimbursement is described in 28 CFR 65.85(c). The information required in 28 CFR 65.85(c) is considered an information collection which is covered under the Paperwork Reduction Act (PRA). This information collection has previously been approved by the Office of Management and Budget (OMB) under the PRA. The OMB control number for this approved information collection is 1115–0184.

List of Subjects

8 CFR Part 2

Authority delegations (government agencies).

28 CFR Part 65

Grant programs—law, Law enforcement, Reporting and recordkeeping requirements.

Accordingly, part 2 of chapter I of title 8 of the Code of Federal Regulations, and part 65 of chapter I of title 28 of the Code of Federal Regulations are proposed to be amended as follows:

TITLE 8—ALIENS AND NATIONALITY

PART 2—AUTHORITY OF THE COMMISSIONER

1. The authority citation for part 2 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301; 8 U.S.C. 1103.

2. Section 2.1 is amended by:

(a) Designating the existing text as paragraph (a); and by

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

§ 2.1 Authority of the Commissioner.

* * * * *

(b) The Commissioner, pursuant to 28 CFR 65.84(a), may execute written contingency agreements with State and local law enforcement agencies regarding assistance under section 103(a)(8) of the Act, which may be activated in the event that the Attorney General determines that such assistance is required during a period of a mass influx of aliens, as provided in 28 CFR 65.83(d). Such contingency agreements shall not authorize State or local law enforcement officers to perform any functions of INS officers or employees under 8 U.S.C. 1103(a)(8) until the Attorney General determines that a mass influx of aliens exists, and specifically authorizes such performance.

TITLE 28—JUDICIAL ADMINISTRATION

PART 65—EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

3. The authority citation for part 65 continues to read as follows:

Authority: The Comprehensive Crime Control Act of 1984, Title II, Chap. VI, Div. I, Subdiv. B, Emergency Federal Law Enforcement Assistance, Pub. L. 98–473, 98 Stat. 1837, Oct. 12, 1984 (42 U.S.C. 10501 *et seq.*); 8 U.S.C. 1101 note; Sec. 610, Pub. L. 102–140, 105 Stat. 832.

4. In § 65.83, a new paragraph (d) is added to read as follows:

§ 65.83 Assistance required by the Attorney General.

* * * * *

(d) If, in making a determination pursuant to paragraph (b) or (c) of this section, the Attorney General also determines that the situation involves an actual or imminent mass influx of aliens arriving off the coast of the United States, or near a land border, which presents urgent circumstances requiring an immediate Federal response, the Attorney General, pursuant to 8 U.S.C. 1103(a)(8), may authorize any State or local law enforcement officer to perform or exercise any of the powers, privileges, or duties conferred or imposed by the INA, or regulations issued thereunder, upon officers or employees of the INS. Such authorization must be with the consent of the head of the department, agency, or establishment under whose jurisdiction the officer is serving.

5. In § 65.84, paragraph (a) is revised to read as follows:

§ 65.84 Procedures for the Attorney General seeking State or local assistance.

(a)(1) When the Attorney General determines to seek assistance from a State or local government under § 65.83, or when the President has determined that an immigration emergency exists, the Attorney General shall negotiate the terms and conditions of that assistance with the State or local government. The Attorney General shall then execute a written agreement with appropriate State or local officials, which sets forth the terms and conditions of the assistance, including funding. Such written agreements can be reimbursement agreements, grants, or cooperative agreements.

(2) The Commissioner of INS may execute written contingency agreements regarding assistance under § 65.83(d) in advance of the Attorney General's determination pursuant to that section. However, such advance agreements shall not authorize State or local law enforcement officers to perform any functions of INS officers or employees under 8 U.S.C. 1103(a)(8) until the Attorney General has made the necessary determinations and authorizes such performance. Any such advance agreements shall contain precise activation procedures.

(3) Written agreements regarding assistance under § 65.83(d), including contingency agreements, shall include the following minimum requirements:

(i) The powers, privileges, or duties that State or local law enforcement officers will be authorized to perform or exercise and the conditions under which they may be performed or exercised;

(ii) The types of assistance by State and local law enforcement officers for which the Attorney General shall be responsible for reimbursing the relevant parties in accordance with the procedures set forth in paragraph (b) of this section;

(iii) A statement that the relevant State or local law enforcement officers are not authorized to perform any functions of INS officers or employees under 8 U.S.C. 1103(a)(8) until the Attorney General has made a determination pursuant to that section and authorizes such performance;

(iv) A requirement that State or local law enforcement officers cannot perform any authorized functions of INS officers or employees under 8 U.S.C. 1103(a)(8) until they have successfully completed an INS prescribed course of instruction in basic immigration law, enforcement fundamentals, civil rights law, and sensitivity and cultural awareness issues;

(v) A description of the duration of both the written agreement, and the authority the Attorney General will confer upon State or local law enforcement officers pursuant to 8 U.S.C. 1103(a)(8), along with a mechanism for amending, terminating, or extending the duration of authority and/or the written agreement;

(vi) A requirement that the performance of any INS officer functions by State or local law enforcement officers pursuant to 8 U.S.C. 1103(a)(8) be at the direction of the INS;

(vii) A requirement that any State or local law enforcement officer performing INS officer or employee functions pursuant to 8 U.S.C. 1103(a)(8) must adhere to the policies and standards set forth during the training, including applicable enforcement standards, civil rights law, and sensitivity and cultural awareness issues;

(viii) A listing by position (title and name when available) of the INS officers authorized to provide operational direction to State or local law enforcement officers assisting in a Federal response pursuant to 8 U.S.C. 1103(a)(8);

(ix) Provisions concerning State or local law enforcement officer use of Federal property or facilities, if any;

(x) A requirement that any department, agency, or establishment whose State or local law enforcement officer is performing INS officer or employee functions shall cooperate fully in any Federal investigation related to the written agreement; and

(xi) A procedure by which the appropriate law enforcement department, agency, or establishment will be notified that the Attorney General has made a determination under 8 U.S.C. 1103(a)(8) to delegate authority for State/local law enforcement officers to enforce immigration law under the provisions of the respective agreements.

* * * * *

6. In § 65.85, paragraph (e) is revised to read as follows:

§ 65.85 Procedures for State or local government applying for funding.

* * * * *

(e) The Attorney General will consider all applications from State or local governments until the Attorney General has expended the maximum amount available in the Immigration Emergency Fund. The Attorney General will make a decision with respect to any application submitted under this section, subject to the necessary notifications within the Administration or Congress, and containing the information described in paragraph (c) of this section, within 15 calendar days of such application.

* * * * *

Dated: April 1, 1999.

Janet Reno,

Attorney General.

[FR Doc. 99–8773 Filed 4–7–99; 8:45 am]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–275–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 777 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Supplemental notice of proposed rulemaking; reopening of comment period.

SUMMARY: This document revises an earlier proposed airworthiness directive (AD), applicable to certain Boeing Model 777 series airplanes, that would have required repetitive inspections of the safety spring wear plate doublers attached to the auxiliary power unit (APU) firewall, measurement of wear of the doublers, and follow-on actions, if necessary. That proposed AD also would have provided for optional terminating action for the repetitive inspections. That proposal was prompted by reports indicating that excessive wear was found on the safety spring wear plate doublers on the APU

firewall of Boeing Model 777 series airplanes. This new action revises the proposed rule by extending the compliance time for a certain action and referencing a new service bulletin. For certain airplanes, this new action also adds a one-time inspection to detect improper clearance between the safety spring wear plate doubler and the APU firewall, and corrective action, if necessary. The actions specified by this new proposed AD are intended to detect and correct wear of the safety spring wear plate doublers on the APU firewall, which could result in a hole in the APU firewall, and consequent decreased fire protection capability.

DATES: Comments must be received by May 3, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–275–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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ed Hormel, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2681; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–275–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–275–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add an airworthiness directive (AD), applicable to certain Boeing Model 777 series airplanes, was published as a notice of proposed rulemaking (NPRM) in the **Federal Register** on November 23, 1998 (63 FR 64659). That NPRM would have required repetitive inspections of the safety spring wear plate doublers attached to the auxiliary power unit (APU) firewall, measurement of wear of the doublers, and follow-on actions, if necessary. That proposed AD also would have provided for optional terminating action for the repetitive inspections. That NPRM was prompted by reports indicating that excessive wear was found on the safety spring wear plate doublers on the APU firewall of Boeing Model 777 series airplanes. That condition, if not corrected, could result in a hole in the APU firewall, and consequent decreased fire protection capability.

Explanation of New Service Information

Since the issuance of that NPRM, the FAA has reviewed and approved Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999. That service bulletin describes procedures for repetitive inspections of the safety spring wear plate doublers attached to the APU firewall, measurement of wear of the doublers, and follow-on actions, if necessary. Those procedures are essentially identical to the procedures described in Boeing Alert Service Bulletin 777–53A0018, dated June 29, 1998 (which was referenced as the appropriate source of service information for the actions proposed in the NPRM). However, among other things, Revision 1 of the service bulletin adds procedures for a one-time visual inspection to detect improper clearance between the safety spring wear plate doubler and the APU firewall, and installation of shims, if necessary, on certain airplanes that were modified previously in accordance with the original issue of the service bulletin. Improper clearance is defined in the service bulletin as the wear plate doubler being in contact with a chemically milled pocket in the APU firewall. Revision 1 of the service bulletin also describes procedures for an optional installation of wear sleeves on the ends of the APU door safety springs to provide additional protection against doubler wear. The new service bulletin revision also adds airplanes to the effectivity listing of the service bulletin.

This supplemental NPRM would require accomplishment of the actions specified in Revision 1 of the service bulletin described previously, except as discussed below.

Differences Between the Service Bulletin and the Supplemental NPRM

Operators should note that, although Revision 1 of the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Operators also should note that, as described previously, Revision 1 of the service bulletin describes procedures for an optional installation of wear sleeves on the ends of the APU door safety springs to provide additional protection against doubler wear. The FAA finds that installation of such wear sleeves does not eliminate the need for repetitive inspection of the existing wear plate doublers or replacement of the existing wear plate doublers with new stainless steel doublers. Therefore, the supplemental NPRM does not propose a requirement for the installation of such wear sleeves.

Related to the optional installation, operators should note that this AD is applicable to Boeing Model 777 series airplanes, having line numbers 001 through 156 inclusive. Though Boeing Model 777 series airplanes after line number 156 have stainless steel wear plate doublers installed prior to delivery, Model 777 series airplanes having line numbers 157 through 183 inclusive have been included in the effectivity listing of the service bulletin to allow operators of these airplanes the

option of installing wear sleeves on the ends of the APU door safety springs. Because the FAA is not requiring installation of such wear sleeves, Model 777 series airplanes having line numbers 157 through 183 inclusive would not be subject to this AD. Therefore, no change to the applicability of the supplemental NPRM is necessary.

Comments

Due consideration has been given to the comments received in response to the NPRM. One comment that has prompted a change in the proposal is explained below.

Request To Revise Proposed AD To Parallel the Service Bulletin

One commenter, the manufacturer, requests that the proposal be revised to parallel the Accomplishment Instructions specified in Boeing Alert Service Bulletin 777–53A0018, dated June 29, 1998. The commenter states that the AD, as proposed, would require repair of any damage to the APU firewall within 20 days after detection of wear. The service bulletin, however, recommends that, if any wear is through either doubler and into or through the firewall, temporary stainless steel patches should be installed within 20 days and the firewall should be repaired within 4,000 flight cycles after installation of the temporary patches. The commenter also points out that paragraph (e) of the proposed rule, which requires the repair of wear into or through the APU firewall within 20 days after detection, contradicts statements in the ''Explanation of Requirements of the Proposed Rule'' in the proposal, which reflects the recommendations of the service bulletin (repair with temporary patches within 20 days and permanent repair of the firewall within 4,000 flight cycles after installation of the temporary patches).

The FAA concurs with the commenter's request to revise the proposed AD to parallel the service bulletin. The FAA has reviewed the Accomplishment Instructions in the original issue of the alert service bulletin, and has determined that, in converting the instructions in the alert service bulletin into the proposed corrective actions stated in the NPRM, the FAA erroneously stated the compliance time for accomplishment of repairs if any wear penetrates into or through the APU firewall. Therefore, the FAA has revised paragraph (c) of this supplemental NPRM to clarify that the paragraph applies to conditions in which wear does not extend into the APU firewall. In addition, the FAA has revised paragraphs (d) and (e) of this supplemental NPRM to reflect the compliance times recommended in the service bulletin.

Conclusion

Since the changes described previously expand the scope of the originally proposed rule, the FAA has determined that it is necessary to reopen the comment period to provide additional opportunity for public comment.

Cost Impact

There are approximately 152 airplanes of the affected design in the worldwide fleet. The FAA estimates that 35 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 2 work hours per airplane to accomplish the proposed inspection to detect wear of the safety spring wear plate doublers, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD on U.S. operators is estimated to be $4,200, or $120 per airplane, per inspection cycle.

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.

Should an operator be required to accomplish the temporary repair, it would take approximately 2 work hours per airplane to accomplish the repair, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the temporary repair action is estimated to be $120 per airplane.

Should an operator be required to accomplish the inspection to detect improper clearance between the safety spring wear plate doubler and the APU firewall, it would take approximately 1 work hour per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection proposed by this AD is estimated to be $60 per airplane.

Should an operator be required or elect to accomplish the replacement of the wear plate doublers, it would take approximately 3 work hours per airplane to accomplish the replacement, at an average labor rate of $60 per work hour. Required parts, if acquired from the manufacturer, would cost approximately $193 per airplane. Based on these figures, the cost impact of replacement of the wear plate doublers is estimated to be $373 per airplane.

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:

Boeing: Docket 98–NM–275–AD.

Applicability: Model 777 series airplanes, line numbers (L/N) 001 through 156 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 (h) 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 wear of the safety spring wear plate doublers on the auxiliary power unit (APU) firewall, which could result in a hole in the APU firewall, and consequent decreased fire protection capability, accomplish the following:

Initial Inspection

(a) Perform a visual inspection of the two safety spring wear plate doublers on the APU firewall, and measure any wear of the doublers, in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999, at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For airplanes that have accumulated 6,000 total flight hours or less as of the effective date of this AD: Inspect and measure prior to the accumulation of 6,300 total flight hours.

(2) For airplanes that have accumulated between 6,001 and 10,000 total flight hours as of the effective date of this AD: Inspect and measure within 30 days after the effective date of this AD.

(3) For airplanes that have accumulated 10,001 total flight hours or more as of the effective date of this AD: Inspect and measure within 10 days after the effective date of this AD.

Note 2: Inspections, repairs, and modifications accomplished prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 777–53A0018, dated June 29, 1998, are considered acceptable for compliance with this AD, provided that the actions required by paragraph (f) of this AD, as applicable, are accomplished in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999.

Repetitive Inspections

(b) If, during the inspection required by paragraph (a) of this AD, the wear on each doubler measures less than 0.045 inch, repeat the inspection and measurement required by paragraph (a) of this AD thereafter at intervals not to exceed 60 days, in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999; until paragraph (g) of this AD has been accomplished.

(c) If, during the inspection required by paragraph (a) of this AD, the wear on either doubler measures greater than or equal to 0.045 inch, but does not penetrate into or through the APU firewall: Repeat the inspection and measurement required by paragraph (a) of this AD thereafter at intervals not to exceed 30 days, in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999; until paragraph (g) of this AD has been accomplished.

Corrective Actions

(d) If, during the inspection required by paragraph (a) of this AD, any wear penetrates through either doubler and into or through the APU firewall: Within 20 days after detection of the wear, accomplish either paragraph (d)(1) or (d)(2) of this AD in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999.

(1) Install a temporary stainless steel patch on both doublers, and within 4,000 flight cycles after installation of the temporary patch, accomplish the requirements of paragraph (e) of this AD.

(2) Accomplish the requirements of paragraph (e) of this AD.

(e) For airplanes on which wear is detected that penetrates through either doubler and into or through the APU firewall: Accomplish the requirements of paragraphs (e)(1) and (e)(2) of this AD at the time specified in paragraph (d) of this AD, as applicable.

(1) Repair the damage to the APU firewall in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(2) Replace both existing wear plate doublers of the APU firewall with new stainless steel wear plate doublers in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999. Such replacement constitutes terminating action for the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

One-Time Inspection

(f) For airplanes having L/N 001 through 037 inclusive that have been modified prior to the effective date of this AD in accordance with Boeing Alert Service Bulletin 777–53A0018, dated June 29, 1998: Within 4 years after the effective date of this AD, perform a one-time visual inspection to detect improper clearance between the safety spring wear plate doublers and the APU firewall, in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999.

(1) If the doublers are not in contact with the chemically milled pocket of the APU firewall, no further action is required by this paragraph.

(2) If the doublers are in contact with the chemically milled pocket of the APU firewall, prior to further flight, install shims between the safety spring wear plate doublers and the APU firewall, in accordance with Part 6 of the Accomplishment Instructions of the service bulletin.

Optional Terminating Action

(g) Replacement of the existing wear plate doublers of the APU firewall with new stainless steel wear plate doublers, in accordance with Boeing Service Bulletin 777–53A0018, Revision 1, dated February 11, 1999, constitutes terminating action for the repetitive inspection requirements of paragraphs (b) and (c) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Issued in Renton, Washington, on April 1, 1999.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–8687 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–22]

Proposed Modification of Class E Airspace; Juneau, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to modify Class E airspace at Juneau, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 20 has been developed for Dodge County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before May 31, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–22, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined

during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AGL–22.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Juneau, WI, to accommodate aircraft executing the proposed GPS Rwy 20 SIAP at Dodge County Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approach. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

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

* * * * *

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

* * * * *

AGL WI E5 Juneau, WI [Revised]

Juneau, Dodge County Airport, WI
(Lat. 43°25′36″N., long. 88°42′12″W.)

That airspace extending upward from 700 feet above the surface within an 8.2-mile radius of the Dodge County Airport, excluding that airspace within the Beaver Dam, WI, Oshkosh, WI, Hartford, WI, Watertown, WI, and Waupun, WI, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on March 29, 1999.

John A. Clayborn,

Acting Manager, Air Traffic Division.

[FR Doc. 99–8749 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–099–007]

Drawbridge Operations Regulations; Columbia River, OR

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily amend the operating regulations for the dual Interstate 5 drawbridges across the Columbia River, mile 106.5, between Portland, Oregon, and Vancouver, Washington. The temporary rule would enable the bridge owner to paint the lift towers of the northbound bridge by permitting the vertical lift span to be maintained in the closed (down) position from July 15 to September 15 in 1999 and 2000, provided that the water level at the bridge remains below 6 feet (Columbia River Datum or CRD) at all times.

DATES: Comments must reach the Coast Guard on or before June 7, 1999.

ADDRESSES: You may mail comments to Commander (oan), Thirteenth Coast

Guard District, 915 Second Avenue, Seattle, Washington 98174–1067 or deliver them to room 3510 between 7:45 a.m. and 4:15 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220–7272.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should identify this rulemaking (CGD 13–99–007) and the specific section of this document to which each comment applies, and give the reson for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. We may change the proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Coast Guard including the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register.**

Background and Purpose

The purpose of the proposed temporary change to operation regulations to 33 CFR 117.869 is to permit the bridge owner to paint the lift span of the northbound bridge. According to the Oregon Department of Transportation, the entire structure is badly in need of painting to prevent further loss of steel through corrosion. The adjacent southbound bridge on I–5 is a newer structure and is not included in this painting project. Its draw span operates normally in unison with the southbound draw span and therefore will be affected by the proposed rule.

Current containment requirements to prevent pollution from the lead paint removal make it necessary to install an envelope around the towers which support the movable span and to isolate the wire ropes within the towers from contamination. This containment system makes it impossible to operate the lift span while it is in place. Derigging such a containment system can not be achieved in a timely fashion for opening the drawbridge for the passage of vessels.

The proposed closure periods are during that part of the year that coincides with lower water levels on the Columbia River. Most vessels are able to pass through one of the two higher fixed spans of the structure south of the drawspan when the river is low. This obviates the need for the dual drawbridges to open for these vessels. The containment system will not intrude into the two fixed spans at the same time that the drawspan is disabled.

The draw opening records show that from 1994 to 1998 the I–5 Bridges averaged 22.4 openings for commercial traffic in July, 15 in August for commercial traffic, and 12.4 for commercial traffic in September. The monthly average was considerably less for recreational vessels.

Since the main channel through the draw span is in line with the downstream railroad swing span, many vessels prefer not to maneuver from the middle of the river back to north bank or vice versa. The Coast Guard understands that openings are not solely demanded on the basis of vertical clearance at the fixed spans near the middle of the bridge. Weather and current related to particular vessels are important factors.

When the river gauge at the bridge is at zero (Columbia River Datum or CRD), the wide fixed span to the south of the lift span provides 58 feet of vertical clearance at the center and the higher and narrower span to the south of the wide span provides 72 feet of vertical clearance. The towboats plying the Columbia River generally require 52 feet or less of vertical clearance. With the river at 6 feet CRD, the wide span is no longer safely passable by towboats. The higher span, although passable, is farther south of the main channel. The limits of maneuverability would dictate that some vessel masters select the lift span channel in order to make a straight course through the downstream railroad bridge swing span.

The highest fixed span is also a less desirable alternative in that it is not an officially authorized channel as of this writing. Some vessel operators are forbidden by their insurance contracts from moving outside authorized channels.

The Coast Guard is particularly interested in determining if the proposed closed periods coincide with expected river levels for the months under consideration such that navigation will not be impeded. The Coast Guard requests comments on alternative closed periods of different lengths of time. The Oregon Department of Transportation requested that the Coast Guard authorize two 90-day closed periods in 1999 and 2000 that would take place between July 1 and October 31. The Coast Guard believes that 90-day periods are exceptionally long and might impede navigation significantly if higher water persists into July. We request comments addressing specific periods for minimal impact to navigation. Mariners are reminded that shorter closed periods may necessitate the approval of closure periods for more than the two years requested by the bridge owner to complete the same amount of work. In other words, the painting of the lift span may involve more than two consecutive summers to finish. The Coast Guard will consider approving the longer 90-day periods if navigational interests indicate that longer closed periods can be tolerated and are preferred to several shorter closures.

The regulations, which are currently in effect, authorize various weekday closed periods during the hours of heavy commuting on Interstate 5. At other times, the dual vertical lift spans open on signal for the passage of vessels.

Discussion of Proposed Rule

The Coast Guard proposes to temporarily amend 33 CFR 117.869 by allowing the drawspan of the subject bridges to remain closed for two 60-day periods from July 15 to September 15, during 1999 and 2000, provided that the river level at the bridge is lower than 6 feet Columbia River Datum at all times during the periods.

Regulatory Evaluation

This rule is not a significant regulatory action under 3(f) of the Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The proposed rule would permit vital maintenance to be performed without unreasonable inconvenience to river traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdiction with populations of less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think your business or organization qualifies as a small entity and that this rule will have a significant economic impact on your business or organization, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that, under Figure 2–1, paragraph 32(e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. From July 15, 1999, to September 15, 2000, a new paragraph (a)(3) is added to § 117.869 to read as follows:

§ 117.869 Columbia River.

(a) * * *

(3) The draws of the dual Interstate 5 Bridges, mile 106.5, between Portland, OR and Vancouver, WA, need not open for the passage of vessels from July 15 to September 15, 1999, and July 15 to September 15, 2000, provided that the river level remains below 6 feet Columbia River Datum. If the river level rises to 6 feet or more, the bridges shall operate as provided in paragraphs (a)(1) and (2) of this section.

* * * * *

Dated: March 31, 1999.

Paul M. Blayney,

Rear Admiral, U.S. Coast Guard Commander, 13th Coast Guard District.

[FR Doc. 99–8745 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0025b; FRL–6319–8]

Approval and Promulgation of Air Quality Implementation Plans; Colorado; Removal and Replacement of Transportation Control Measure, Colorado Springs Element, Carbon Monoxide Section of the State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing approval of a revision to the Colorado State Implementation Plan (SIP), carbon monoxide (CO) section, Colorado Springs element. In a June 25, 1996, submission, Colorado requests that emission reductions from oxygenate use in gasoline be substituted for reductions associated with the previously approved (48 FR 55284, December 12, 1983) bus acquisition program because the bus program was not implemented due to the lack of federal funding. This revision satisfies certain requirements of part D and section 110 of the Clean Air Act (CAA), as amended in 1990. 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 SIP revision 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 this proposed rule, no further activity is contemplated in relation to this 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 action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by May 10, 1999.

ADDRESSES: Written comments may be mailed to: Richard R. Long, Director, Air and Radiation Program (8P–AR), United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

Copies of the documents relevant to this action are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following office: United States Environmental Protection Agency, Region VIII, Air and Radiation Program (8P–AR), 999 18th Street, Suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Tim Russ, Air and Radiation Program (8P–AR), United States Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, Telephone number: (303) 312–6479.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules section of this **Federal Register**.

Dated: March 24, 1999.

William P. Yellowtail,

Regional Administrator, Region VIII.

[FR Doc. 99–8631 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–101; RM–9494]

Radio Broadcasting Services; Augusta, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of L. Topaz Enterprises, Inc., requesting the allotment of Channel 263A to Augusta, Kansas, as that community's second local FM transmission service. Coordinates used for this proposal are 37–41–12 NL; 96–58–30 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: L. Topaz Enterprises, Inc. c/o Dale A. Ganske, President, 3325 Conservancy Lane, Middleton, WI 53562.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–101, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8744 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–100; RM–9491]

Radio Broadcasting Services; Somerton, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of L. Topaz Enterprises, Inc., requesting the allotment of Channel 260C3 to Somerton, Arizona, as that community's first local aural transmission service. Coordinates used for this proposal are 32–35–00 NL; 114–35–05 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: L. Topaz Enterprises, Inc., c/o Dale A. Ganske, President, 3325 Conservancy Lane, Middleton, WI 53562.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–100, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8743 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–99; RM–9484]

Radio Broadcasting Services; Kensett, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of White County Broadcasters, requesting the allotment of Channel 289A to Kensett, Arkansas, as that community's first local commercial FM transmission service. Coordinates used for this proposal are 39–14–00 NL; 91–39–54 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John F. Garziglia, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–99, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room

CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8742 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–98; RM–9483]

Radio Broadcasting Services; Judsonia, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of White County Broadcasters, requesting the allotment of Channel 237A to Judsonia, Arkansas, as that community's first local aural transmission service. Coordinates used for this proposal are 35–17–06 NL; 91–37–45 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: John F. Garziglia, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–98, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8741 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–110; RM–9513]

Radio Broadcasting Services; Westcliffe, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 257A to Westcliffe, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 38–04–10 NL and 105–31–42 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–110, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8739 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–109; RM–9512]

Radio Broadcasting Services; Walsenburg, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 267C3 to Walsenburg, Colorado, as that community's second local FM transmission service. Coordinates used for this proposal are 37–37–27 NL and 104–46–47 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–109, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8738 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–108; RM–9511]

Radio Broadcasting Services; Sawpit, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting requesting the allotment of Channel 256C3 to Sawpit, Colorado, as that community's first local aural transmission service. Information is requested regarding the attributes of Sawpit, Colorado, to determine whether it is a *bona fide* community for allotment purposes. Coordinates used for this proposal are 37–59–36 NL and 108–00–12 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Victor A. Michael, Jr., President, Mountain West Broadcasting, 6807 Foxglove Drive, Cheyenne, WY 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–108, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8737 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–107; RM–9510]

Radio Broadcasting Services; La Veta, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 277A to La Veta, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 37–30–54 NL and 105–00–18 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–107, adopted March 24, 1999, and

released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8736 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–111; RM–9539]

Radio Broadcasting Services; Taft, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 293A to Taft, California, as that community's second local FM transmission service. Coordinates used for this proposal are 35–08–18 NL and 119–27–30 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–111, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8735 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–106; RM–9509]

Radio Broadcasting Services; La Jara, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 221A to La Jara, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 37–16–30 NL and 105–57–35 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–106, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8734 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–105; RM–9508]

Radio Broadcasting Services; Center, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 287A to Center, Colorado, as that community's first local aural transmission service. Coordinates used for this proposal are 37–45–00 NL and 106–06–24 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–105, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8733 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CAR Part 73

[MM Docket No. 99–104; RM–9507]

Radio Broadcasting Services; Beulah, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 230C3 to Beulah, Colorado, as a first local aural transmission service. As Beulah is not incorporated or listed in the U.S. Census, information is requested regarding the attributes of that locality to determine whether it is a *bona fide* community for allotment purposes. Coordinates used for this proposal are 37–53–23 NL and 105–01–13 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–104, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CAR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CAR 1.415 and 1.420.

List of Subjects in 47 CAR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8732 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–103; RM–9506]

Radio Broadcasting Services; Bayfield, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 237A to Bayfield, Colorado, as that community's first local commercial FM transmission service. *See* Supplementary Information, *infra.* Coordinates used for this proposal are 37–13–32 NL and 107–35–51 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No.

99–103, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Although Channel 237A is requested for allotment to Bayfield, Colorado, as that community's first local FM transmission service, Channel 296C has been proposed for allotment to Bayfield in the context of MM Docket No. 99–76 (RM–9400). *See Notice of Proposed Rule Making* adopted March 10, 1999 (DA 99–534). Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8731 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–102; RM–9495]

Radio Broadcasting Services; Wellton, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of L. Topaz Enterprises, Inc., requesting the allotment of Channel 240A to Wellton, Arizona, as that community's second local FM transmission service. As Wellton is located within 320 kilometers (199 miles) of the U.S.-Mexico border, concurrence of the Mexican government to the proposed allotment of Channel 240A to that community will be required. Coordinates used for this proposal are 32–40–18 NL; 114–08–18.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: L. Topaz Enterprises, Inc. c/o Dale A. Ganske, President, 3325 Conservancy Lane, Middleton, WI 53562.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–102, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of l980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communication Commission.

John A. Karousos,

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

[FR Doc. 99–8730 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–112; RM–9540]

Radio Broadcasting Services; Thermal, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Mountain West Broadcasting, requesting the allotment of Channel 278A to Thermal, California, as a first local aural transmission service. As Thermal is not incorporated or listed in the U.S. Census, information is requested regarding the attributes of that locality to determine whether it is a *bona fide* community for allotment purposes. Coordinates used for this proposal are 33–38–42 NL and 116–08–30 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Mountain West Broadcasting, c/o Victor A. Michael, Jr., President, 6807 Foxglove Drive, Cheyenne, Wyoming 82009.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–112, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this

one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8791 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 99–113; RM–9544]

Radio Broadcasting Services; Cimarron, KS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Nancy Puopolo, requesting the allotment of Channel 222A to Cimarron, Kansas, as that community's first local aural transmission service. Coordinates used for this proposal are 37–48–41 NL and 100–23–09 WL.

DATES: Comments must be filed on or before May 24, 1999, and reply comments on or before June 8, 1999.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Nancy J. Puopolo, 37 Martin St., Rehoboth, MA 02769–2103.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–113, adopted March 24, 1999, and released April 2, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY–A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 99–8790 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 64, No. 67

Thursday, April 8, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. LS–99–008]

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) intention to request an extension of a currently approved information collection used to compile and generate the livestock and meat market reports for the Livestock and Grain Market News Program.

DATES: Comments must be submitted on or before June 7, 1999.

ADDRESSES: Jimmy A. Beard; Assistant to the Chief; Livestock and Grain Market News Branch, Livestock and Seed Program, AMS-USDA, Room 2619 South Building, P.O. Box 96456, Washington, D.C. 20090.

FOR FURTHER INFORMATION CONTACT: Jimmy A. Beard, (202) 720–1050.

SUPPLEMENTARY INFORMATION:

Title: Livestock and Meat Market Reports.

OMB Number: 0581–0154.

Expiration Date of Approval: 01–31–2000.

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

Abstract: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621, *et seq.*) directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization.

Under this market news program, USDA issues market news reports covering the livestock and meat trade, which includes a wide range of industry contacts, including packers, processors, producers, brokers, and retailers. These reports are compiled on a voluntary basis, in cooperation with the livestock and meat industry. The information provided by respondents initiates market news reporting, which must be timely, accurate, unbiased, and continuous if it is to be useful to the industry. The livestock and meat industry requested that USDA issue livestock and meat market reports in order to assist them in making immediate production and marketing decisions and as a guide in making sound marketing decisions. The industry uses the livestock and meat reports for assistance in making marketing and production decisions. Also, since the Government is a large purchaser of meat, the reporting and use of this data is helpful.

Estimate of Burden: Public reporting burden for this collection of information is estimated at .03 hours per response.

Respondents: Business or other for-profit, individuals or households, farms, Federal Government.

Estimated Number of Respondents: 450.

Estimated Number of Responses per Respondent: 520.

Estimated Total Annual Burden on Respondents: 7,020 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the methodology and assumptions used; (3) ways to enhance quality, utility, and clarity of the information to be collected; and (4) ways 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.

Comments may be sent to: Jimmy A. Beard, Assistant to the Chief, Livestock and Grain Market News Branch, Livestock and Seed Program, AMS–U SDA, Room 2619 South Building, P.O. Box 96456, Washington, D.C. 20090–6456.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record, and will be made available at the address above, during regular business hours.

Dated: April 5, 1999.

Barry L. Carpenter,

Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–8764 Filed 4–7–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Stimson ANILCA Access Easement, Colville National Forest, Pend Oreille County, WA

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: The Forest Service, USDA, will prepare an environmental impact statement (EIS) on a site-specific proposal to grant an easement and authorize construction and reconstruction of specific roads across National Forest System (NFS) lands as requested by Stimson Lumber Company to access their lands. This request seeks legal access to approximately 2,480 acres in five separate sections of non-Federal land located within the Forest Boundary on the Sullivan Lake Ranger District. The proposed action is located approximately six miles south of Ione, Washington, within the LeClerc Creek watershed. The Proposed Action will be in compliance with the 1988 Colville National Forest Land and Resource Management Plan (Forest Plan) as amended, which provides the overall guidance for management of this area. The Colville National Forest invites written comments and suggestions on the scope of the analysis. The agency gives notice of the full environmental analysis and decision making process so that interested and affected people may be able to participate and contribute in the final decision.

DATES: Comments concerning the scope of this proposal should be received in writing by May 15, 1999.

ADDRESSES: Send written comments and suggestions to Fred C. Gonzalez, District Ranger, 12641 Sullivan Lake Road, Metaline Falls, Washington 99153.

FOR FURTHER INFORMATION CONTACT: Questions about this EIS should be directed to Tim Bertram, Interdisciplinary Team Leader, 12641 Sullivan Lake Road, Metaline Falls, Washington 99153 (phone: 509–446–7500).

SUPPLEMENTARY INFORMATION: The Proposed Action is to grant an easement to Stimson Lumber Company authorizing the construction, reconstruction, and use of seven segments of road, totaling approximately 2.69 miles, to access their property. Sections of land to be accessed are surrounded by NFS lands and no legal road access to the sections currently exists. Stimson Lumber Company seeks access pursuant to the Alaska National Interest Lands Conservation Act, (ANILCA). The ANILCA directs the Forest Service to grant access to inholdings of non-Federal land within the National Forest boundary for the reasonable use and enjoyment of those lands by the landowner. Stimson has stated that it intends to manage the lands to be accessed for long-term timber production utilizing conventional ground based logging systems. The applicant intends to build roads on the easement sufficient to support the intended use of the land.

The proposed Action may result in an amendment to the Forest Plan to provide additional standards and guidelines for the LeClerc Grizzley Bear Management Unit. The standards and guidelines would be based upon recommendations provided in the Interagency Grizzly Bear committee Task Force Report (as revised July 29, 1998).

This analysis will evaluate a range of alternatives for granting access for Stimson's inholdings. The access involves approximately 2.69 miles of road on 22 acres of NFS lands.

Analysis of effects will include both the project area on NFS lands as well as affects on non-federal Stimson lands accessed by the roads. Analysis areas will differ based on resource being assessed (watershed boundaries, grizzly bear management units, etc.).

The Draft EIS will be tiered to the Colville National Forest Land and Resource Management Plan. The Land and Resource Management Plan's Management Area direction for this project area is approximately 3 percent Old Growth Dependent Species Habitat (Management Area 1), 30 percent Wood/Forage Emphasis (Management Area 7), and 67 percent Winter Range (Management Area 8).

Preliminary issues include: (1) Under ANILCA and its implementing regulations, what would constitute reasonable access to Stimson land; (2) What would be the effects of granting access to Stimson land on natural resources including proposed, threatened, and endangered species habitat; and (3) Where is access mutually needed by both Stimson and the Forest Service to meet both economic concerns and natural resource objectives?

A range of alternatives will be considered, including a no-action alternative. Initial scoping began in May 1992 with notice and mailings to interested parties. An Interdisciplinary team was assigned on May 28, 1992 to identify and clarify issues, to explore and develop alternatives based on key issues, and to review and analyze potential environmental effects. An Environmental Assessment (EA), called the Stimson Cost-Share EA, was issued to the public for comment from July 16, 1997 to August 15, 1997. A Decision Notice/Finding of No Significant Impact was issued on March 6, 1998. The decision document was appealed and reversed by the Appeal Deciding Officer on June 15, 1998. comments from the EA comment period and the appeals have been incorporated in the preparation of this Notice and the Proposed Action.

The Environmental Protection Agency (EPA) will publish a Notice of Availability of the draft EIS in the **Federal Register.** The draft EIS is expected to be available by June, 1999. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register.** It is important that those interested in the management of the Colville National forest participate at that time.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process.

First, reviewers of the draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519,553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir., 1986) and *Wisconsin Heritages. Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this Proposed Action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final EIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the Statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

The final EIS is scheduled to be available by September 1999. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. The Lead Agency is the USDA Forest Service. The responsible official is Colville National Forest Supervisor, Robert L. Vaught, 765 South Main, Colville, WA 99114. The responsible official will decide which, if any, of the alternatives will be implemented. The decision and the rationale for the decision will be documented in the record of Decision, which will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: March 30, 1999.

Robert L. Vaught,

Forest Supervisor.

[FR Doc. 99–8726 Filed 4–7–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 031599B]

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to Rocket Launches

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

ACTION: Notice of issuance of a letter of authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA), as amended, and implementing regulations, notification is hereby given that a 1-year letter of authorization to take small numbers of seals and sea lions was issued on April 2, 1999, to the 30th Space Wing, U.S. Air Force.

ADDRESSES: The letter of authorization and supporting documentation are available for review during regular business hours in the following offices: Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910, and the Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, or Christina Fahy, NMFS, (562) 980–4023.

SUPPLEMENTARY INFORMATION: Section 101(a)(5)(A) of the MMPA (16 U.S.C. 1361 *et seq.*) directs NMFS to allow, on request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued. Under the MMPA, the term ''taking'' means to harass, hunt, capture, or kill or to attempt to harass, hunt, capture or kill marine mammals.

Permission may be granted for periods up to 5 years if NMFS finds, after notification and opportunity for public comment, that the taking will have a negligible impact on the species or stock(s) of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses. In addition, NMFS must prescribe regulations that include permissible methods of taking and other means effecting the least practicable adverse impact on the species and its habitat and on the availability of the species for subsistence uses, paying particular attention to rookeries, mating grounds, and areas of similar significance. The regulations must include requirements pertaining to the monitoring and reporting of such taking. Regulations governing the taking of seals and sea lions incidental to missile and rocket launches, aircraft flight test operations, and helicopter operations at Vandenberg Air Force Base, CA were published on March 1, 1999 (64 FR 9925), and remain in effect until December 31, 2003.

Issuance of this letter of authorization is based on a finding that the total takings will have no more than a negligible impact on the seal and sea lion populations off the Vandenberg coast and on the Northern Channel Islands.

Dated: April 2, 1999.

Art Jeffers,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–8767 Filed 4–7–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 033099D]

Marine Mammals; File No. 945–1499–00

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

ACTION: Receipt of application.

SUMMARY: Notice is hereby given that Glacier Bay National Park and Preserve, has applied in due form for a permit to take humpback whales (*Megaptera novaeangliae*), minke whales (*Balaenoptera acutorostrata*, and killer whales (*Orcinus orca*) for purposes of scientific research.

DATES: Written or telefaxed comments must be received on or before May 10, 1999.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, 709 W. 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, Alaska 99802 (907/586–7012).

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or by other electronic media.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

The applicant is requesting authorization to inadvertently harass up to 200 humpback whales (*Megaptera novaeangliae*) 20 minke whales (*Balaenoptera acutorostrata*) and 75 killer whales (*Orcinus orca*) annually for scientific research purposes during observational, photo-identification, prey assessment and acoustic monitoring activities, and collection of sloughed skin samples for export to New Zealand. Research will be conducted in the waters of Glacier Bay and Icy Strait, Alaska over a five year period. The applicant proposes to initiate this work on May 1, 1999.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 30, 1999.

Ann Hochman,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–8615 Filed 4–7–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032599C]

Marine Mammals; File No. 881–1443 and File No. 633–1483

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Receipt of applications for amendments.

SUMMARY: Notice is hereby given that the Alaska SeaLife Center (ASLC), P.O. Box 1329, Seward, AK 99664 has requested an amendment to scientific research and enhancement Permit No. 881–1443; and the Center for Coastal Studies (CCS), 59 Commercial Street, P.O. Box 1036, Provincetown, MA 02657 has requested an amendment to scientific research Permit No. 633–1483.

DATES: Written or telefaxed comments must be received on or before May 10, 1999.

ADDRESSES: The amendment requests and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

For the Alaska SeaLife Center (Permit No. 881–1443): Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, P.O. Box 21688, Juneau, AK 99802–1668 (907/586–7221); and

For the Center for Coastal Studies (Permit No. 633–1483): Regional Administrator, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Dr., Gloucester, MA 01930–0070 (978/281–9250).

Written comments or requests for a public hearing on these requests should be submitted to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on these particular amendment requests would be appropriate.

Comments may also be submitted by facsimile at (301) 713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period. Please note that comments will not be accepted by e-mail or other electronic media.

FOR FURTHER INFORMATION CONTACT: Sara Shapiro or Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 881–1443 (ASLC), issued on March 27, 1998 (63 FR 14905), and the subject amendment to Permit No. 633–1483 (CCS), issued on March 3, 1999 (64 FR 10276) are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23).

Permit No. 881–1443 (ASLC) authorizes the Permit Holder to: assess nutritional physiology, metabolic development, and clinical health under captive conditions of six harbor seals (*Phoca vitulina*) and three Steller sea lions (*Eumetopias jubatus*); conduct stable isotope and lipid metabolism studies on the harbor seals; and conduct a two-week fasting study as part of the controlled dietary studies. The Permit Holder requests authorization to conduct the following experiments on the Steller sea lions: reproductive chemistry and physiology; immunology; organochlorine testing; dive disorders; optimal foraging; and body condition.

Permit No. 633–1483 (CCS) authorizes the Permit Holder to: conduct behavioral observations of, and photo-identify Northern right whales (*Eubalaena glacialis*) during aerial and vessel surveys; place VHF tags on right whales during the course of vessel surveys; collect skin and blubber biopsy samples and sloughed skin; and export skin samples for genetic analysis. The Permit Holder requests authorization to approach, photo-identify, and collect, import and export tissue samples from free-ranging, entangled, and stranded humpback whales (*Megaptera novaeangliae*) and other balaenopterid species. CCS proposes to conduct this research in the U.S. waters of the Atlantic Ocean.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: April 1, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–8760 Filed 4–7–99; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

April 2, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: April 9, 1999.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for carryforward applied to the 1998 limits and an additional 5% allowance for 100 percent cotton garments made of handloomed fabrics.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 68247, published on December 10, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

April 2, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 4, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man–

made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on April 9, 1999, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
314	8,101,059 square meters.
315	14,108,165 square meters.
334/634	160,923 dozen.
335/635	716,429 dozen.
336/636	958,106 dozen.
338/339	3,931,812 dozen.
340/640	2,127,435 dozen.
341	4,220,145 dozen of which not more than 2,532,085 dozen shall be in Category 341–Y [2].
342/642	1,247,394 dozen.
347/348	711,737 dozen.
351/651	290,544 dozen.
369–D [3]	1,350,698 kilograms.
369–S [4]	736,744 kilograms.
641	1,519,843 dozen.
Group II.	
200, 201, 220–227, 237, 239pt. [5], 300, 301, 331–333, 350, 352, 359pt. [6], 360–362, 600–604, 606 [7], 607, 611–629, 631, 633, 638, 639, 643–646, 649, 650, 652, 659pt. [8], 666, 669pt. [9], 670, 831, 833–838, 840–858 and 859pt. [10], as a group.	116,737,121 square meters equivalent.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[3] Category 369–D: only HTS numbers 6302.60.0010, 6302.91.0005 and 6302.91.0045.

[4] Category 369–S: only HTS number 6307.10.2005.

[5] Category 239pt.: only HTS number 6209.20.5040 (diapers).

[6] Category 359pt.: all HTS numbers except 6406.99.1550.

[7] Category 606: all HTS numbers except 5403.31.0040 (for administrative purposes Category 606 is designated as 606(1)).

[8] Category 659pt.: all HTS numbers except 6406.99.1510 and 6406.99.1540.

[9] Category 669pt.: all HTS numbers except 5601.10.2000, 5601.22.0090, 5607.49.3000, 5607.50.4000 and 6406.10.9040.

[10] Category 859pt.: only HTS numbers 6115.19.8040, 6117.10.6020, 6212.10.5030, 6212.10.9040, 6212.20.0030, 6212.30.0030, 6212.90.0090, 6214.10.2000 and 6214.90.0090.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.99–8786 Filed 4–7–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, § 10(a), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on April 21, 1999 in the first floor hearing room (Room 1000) of the Commission's Washington, DC headquarters, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581. The meeting will begin at 1:00 p.m. and last until 5:00 p.m. The agenda will consist of the following:

Agenda

1. Welcoming Remarks.
2. Panel Discussion on Risk Management Strategies for Producers of Agricultural Commodities.
3. Panel Discussion on Legislative Initiatives for Crop Insurance and other Risk Management Proposals.
4. Status Report and Discussion of Potential Modifications of the Agricultural Trade Option Pilot Program.
5. Other Business.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner David D. Spears, is empowered to conduct the meeting in a fashion that will, in his 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 Agricultural Advisory Committee, c/o Commissioner David D. Spears, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should inform Commissioner Spears in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, DC on April 2, 1999.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–8652 Filed 4–7–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Army Corps of Engineers

Intent to Prepare an Integrated Feasibility Report/Environmental Impact Statement for Environmental Restoration and Flood Control in the Sand Creek Watershed near Wahoo, Nebraska

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: Congress authorized the U.S. Army Corps of Engineers (COE) to conduct a reconnaissance study along the Lower Platte River and Tributaries, Nebraska in the interest of flood control, environmental restoration, and other purposes. The COE has conducted a reconnaissance study pursuant to this authority, and has determined that further study in the Sand Creek Watershed in the nature of a Feasibility-Phase Study is required to fulfill the intent of the study authority and to assess the extent of the Federal interest.

The goal of the integrated Feasibility Study/EIS will be to determine the alternative that provides a desired combination of environmental restoration, reduction of sedimentation and water quality improvement, while also providing flood damage reduction and recreation benefits.

Alternatives proposed for consideration are (1) a 637–surface acre multipurpose impoundment one mile north of Wahoo, Nebraska on Sand Creek locally known as the Lake Wanahoo proposal, (2) seven smaller impoundments upstream from the Lake Wanahoo site proposed by the Natural Resources Conservation Service (NRCS) in 1998, (3) two smaller impoundments upstream that were proposed by the COE back in 1960, (4) a combination of Lake Wanahoo and one of the old COE damsites, (5) a combination of Lake Wanahoo and the seven smaller upstream impoundments, and (6) one or more stream channel grade control structures starting at the Lake Wanahoo location and sized to provide wetlands without creating a structure needing a dam classification. The no COE action alternative will also be considered.

A single scoping meeting will be held in Wahoo, Nebraska in the Lower Platte North Natural Resources District (NRD) conference room from 7:00–9:00 pm on May 4, 1999. Scoping comments will be accepted by phone or mail at any time during the preparation of the Draft Feasibility Report/Draft EIS.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft EIS should be directed to Candace M. Thomas, Chief, Environmental and Economics Section, Water Resources Branch, U.S. Army Corps of Engineers, 215 North 17th Street, Omaha, Nebraska 68102–4978, phone (402) 221–4575, email: Candice.M.Thomas@usace.army.mil

SUPPLEMENTARY INFORMATION: The Lower Platte North NRD is a cost-sharing sponsor in the preparation of the feasibility study/EIS, and would also be required to cost-share on any project that results from the study. The feasibility report and EIS will be integrated to reduce paperwork and redundancy, and to consolidate planning documentation into one consistent report.

A watershed planning approach has been taken in the Sand Creek watershed. A 1998 watershed plan prepared by the Lower Platte North NRD and the NRCS consists of 7 dams that will reduce rural and urban flood damages, reduce sedimentation and scour, enhance fish and wildlife habitat, enhance water quality, improve economic conditions, and provide recreational opportunities. That planning process was extended nearly three years for additional studies and consultation with the USFWS on the timing and flows of the Platte River and potential impacts on the endangered pallid sturgeon.

During the delay period, the Lower Platte North NRD also began pursuing a Lake Wanahoo project that would address some of the same flooding problems. The opportunity for building Lake Wanahoo stems from the redesign of U.S. Highway 77 from a two-lane highway to a four-lane expressway. This construction is scheduled to begin in 2002. The Lake Wanahoo dam embankment could also serve as the expressway crossing of Sand Creek.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 99–8765 Filed 4–7–99; 8:45 am]

BILLING CODE 3710–62–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. Chapter 3507(j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by April 19, 1999. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before June 7, 1999.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, N.W., Room 10235, New Executive Office Building, Washington, D.C. 20503. Comments regarding the regular clearance and requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 400 Maryland Avenue, S.W., 5624, Regional Office Building 3, Washington, D.C. 20202–4651, or should be electronically mailed to the internet address *Pat Sherrill@ed.gov,* or should be faxed to 202–708–9346.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purposes of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Leader, Information Management Group, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: April 5, 1999.

William E. Burrow,

Acting Leader, Information Management Group, Office of the Chief Information Officer.

Office of Postsecondary Education.

Type of Review: New.

Title: Application for Grants Under the Developing Hispanic-Serving Institutions Program.

Abstract: This information is required of institutions of higher education designated eligible to apply for grants as Hispanic-Serving Institutions under Title V, Part A of the Higher Education Act of 1965, as amended. This information will be used in the evaluation process to determine whether proposed activities are consistent with legislated activities, and to determine the dollar share of the Congressional appropriation.

Additional information: The Higher Education Amendments of 1998 made significant changes to the statutory authorization for Title III, Part A. Title V was created to replace Part A, section 316 of Title II and was named the

Developing Hispanic-Serving Institutions Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Burden:

Responses: 100

Burden Hours: 850

[FR Doc. 99–8748 Filed 4–7–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Arms Control and Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Subsequent Arrangement.

SUMMARY: The Department is providing a notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation in the Peaceful Uses of Nuclear Energy Between the United States of America and the European Atomic Energy Community (EURATOM) and the Agreement for Cooperation Between the Government of the United States of America and the Government of Canada Concerning the Civil Uses of Atomic Energy. This notice is being issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160).

The subsequent arrangement concerns approval of RTD/CA(EU)–1 involving the return of 25,000 grams of fuel fabrication scrap, containing 23,280 grams of the isotope U–235 (93.15 percent enrichment) from UKAEA in Dounreay, United Kingdom, to, AECL in Chalk River, Canada. The material was originally transferred to the United Kingdom for the recovery of HEU under RTD/EU(CA)–15, which was implemented on October 28, 1997. The recovery process has now been completed and is ready for retransfer to Canada for use as target material for the production of Molybdenum 99.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: April 2, 1999.

For the Department of Energy.

Ed Fei,

Deputy Director, International Policy and Analysis Division, Office of Arms Control and Nonproliferation.

[FR Doc. 99–8757 Filed 4–7–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER99–473–001, ER99–418–001 and EL99–47–000]

California Independent System Operator Corporation and Pacific Gas and Electric Company; Notice of Initiation of Proceeding and Refund Effective Date

April 5, 1999.

Take notice that on April 2, 1999, the Commission issued an order in the above-indicated dockets initiating a proceeding in Docket No. EL99–47–000 under section 206 of the Federal Power Act.

The refund effective date in Docket No. EL99–47–000 will be 60 days after publication of this notice in the **Federal Register**.

David P. Boergers,

Secretary.

[FR Doc 99–8747 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN99–2–000]

Communications of Market Information Between Affiliates; Declaratory Order

Issued April 1, 1999.

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

The Enforcement section, Office of the General Counsel (Enforcement), received a complaint on the Enforcement Hotline that a public utility informed its affiliate by phone to look the next day on the public utility's Internet website for an offer to sell energy. The following day, the public utility advertised discounted energy on its website for only a half-hour. The affiliate and another non-affiliated entity arranged to purchase the discounted energy from the public utility based on the posting. Three weeks later, another non-affiliate requested the same discount terms. The public utility refused to sell energy to that non-affiliate on the same terms at that time.

This scenario raises an issue of whether the public utility gave its affiliate an undue preference by telling the affiliate in advance to look on the public utility's website for information about an offer to sell energy. To provide guidance and eliminate any future uncertainty, the Commission clarifies that a public utility must not alert its affiliate to check for an electronic posting. Such a tip is market information that a utility cannot selectively disclose to an affiliate.

Background

The Hotline learned that a public utility was called by its power marketing affiliate which sought inexpensive energy for a specified term. Several days later, the public utility told its affiliate that the public utility would post on its web page an offer for energy sales with price information the following day.

The next day, the public utility posted on its website an offer to sell a certain quantity of megawatts of installed capacity and energy for a specified term at a particular price. The public utility posted the offer for 30 minutes.

On the day the offer was posted, the affiliate requested all of the megawatts posted. Later the same day, a non-affiliated entity requested a quantity of energy under the same terms given to the affiliate. The public utility agreed to that request as well.

Three weeks later, a second non-affiliated entity requested energy on the same terms that the public utility had given the affiliate and the first non-affiliated entity. The public utility responded that it could only offer capacity and energy on a month-to-month basis and at a different price than it had given the affiliate. When the second non-affiliated entity asked about the sales that the public utility had made to its affiliate and the first non-affiliated entity, the public utility replied that that offering was posted on its website on one day, and that the price had to go up after that day because the public utility faced new environmental requirements and other restrictions.

Discussion

This sale raises the issue of whether the public utility provided an undue preference to its affiliate by telling the affiliate to look for an offer prior to posting the offer on its website.[1] The

[1] There are several problems with this communication: the public utility gave advance notice of the posting to the affiliate—shortly after

Commission clarifies such an advance communication to an affiliate provides an undue preference in violation of section 205 of the Federal Power Act (FPA).

Under section 205 of the FPA, the Commission has jurisdiction over all rates and charges for the transmission or sale of electric energy for resale in interstate commerce by public utilities. Section 205(b) prohibits a public utility from making or granting undue preference or advantage to any person or subjecting any person to any undue preference or disadvantage or maintaining any unreasonable difference in rates, charges, services or facilities with respect to jurisdictional transmission or sales.

In *Detroit Edison Company, et al. (Detroit Edison),* 80 FERC ¶ 61,348 at 62,197–98 (1997), and *Allegheny Power Service Corporation (Allegheny),* 82 FERC ¶ 61,245 (1998), the Commission provided procedures for notice and posting of affiliate transactions. In particular, *Detroit Edison* established three conditions to guard against preferences to affiliates in sales: (1) A public utility may sell power to its affiliate only at a rate that is no lower than the rate it charges non-affiliates; (2) a public utility offering to sell power to an affiliated marketer must make the same offer, at the same time, to non-affiliated entities via its electronic bulletin board; and (3) the public utility must post simultaneously on its electronic bulletin board the actual price charged to its affiliate for all transactions.[2] However, *Detroit Edison* does not directly address whether a public utility may alert an affiliate to a prospective offering prior to actually posting the offering on its website.

In *UtiliCorp United, Inc., et al.* (in which the Commission authorized a public utility to sell power at market-based rates), the Commission specifically required that all market information that is shared with an affiliate must be shared with non-affiliates:

All market information shared with an affiliated power marketer must be disclosed simultaneously [to non-affiliates]. This includes information on sales or purchases that will not be made. . . . If there is *any* communication between the two concerning the utility's power or transmission business—broker-related or not, present or future, positive or negative, concrete or potential, significant or slight—it must be simultaneously communicated to all non-affiliates.[3]

Notifying an affiliate to look for a posting is market information that a public utility must communicate simultaneously to non-affiliates. This is consistent with the Commission's ruling in the transmission context that direct communication by phone is not equal to posting information on OASIS. In *American Electric Power Service Corporation, et al.,* The Commission ruled that transmission providers may not disseminate transmission information to merchant function employees or affiliated marketers by phone, while requiring non-affiliates to search the OASIS. Indeed, the Commission stated that transmission employees may not ''selectively inform wholesale merchant employees that transmission information will be posted on the OASIS at a specific time.'' [4]

Therefore, the Commission clarifies that market information is not limited to an actual offer to sell or purchase power; it includes the timing of electronic postings. Public utilities may not selectively communicate any market information to or with affiliates. Market information that is given to an affiliate must be disclosed simultaneously to all non-affiliates.

By the Commission.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8746 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

the affiliate's telephone request for power. The public utility offered the power for sale for only a half-hour the following day. The short duration of the posting enhanced the value of the tip to look for the posting.

[2] The Commission did not specify what it means to ''post'' information on an ''electronic bulletin board.'' With more pervasive use of the Internet, ''posting'' information regarding electric sales or transmission transactions generally means to place it on an Internet site.

[3] 75 FERC ¶ 61,168 at 61,557 (1996), *reh'g denied,* 76 FERC ¶ 61,192 (emphasis in original); *accord* Cambridge Electric Light Company, *et al.,* 85 FERC ¶ 61,217 at 61,898 (1998).

[4] 81 FERC ¶ 61,332 at 62,516 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–7–000]

Destin Pipeline Company, L.L.C.; Notice of Tariff Filing

April 2. 1999.

Take notice that on March 30, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, to become effective on May 1, 1999:

Second Revised Sheet No. 123 Original Sheet No. 123a

Destin states that the purpose of this filing is to update Section 20 of the General Terms and Conditions of its Tariff relating to marketing affiliates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc/fed/us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8699 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–266–000]

Destin Pipeline Company, L.L.C.; Notice of Proposed Changes to FERC Gas Tariff

April 2, 1999.

Take notice that on March 30, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective May 1, 1999:

First Revised Sheet No. 17
Second Revised Sheet No. 20
Second Revised Sheet No. 25
First Revised Sheet No. 26a
First Revised Sheet No. 68
First Revised Sheet No. 86
Third Revised Sheet No. 87
First Revised Sheet No. 90
Second Revised Sheet No. 194
First Revised Sheet No. 194a
Second Revised Sheet No. 210
First Revised Sheet No. 244

Destin states that the purpose of this filing is to revise its Tariff to incorporate certain modifications and clarifications to Rate Schedule FT–2, and to Section

12 (Nominations), and Section 14 (Resolution of Imbalances) of its General Terms and Conditions.

Destin states that the need for these modificaitons has arisen from Destin's day-to-day operating experience on its system during the initial months of service.

Destin states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8702 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–267–000]

Destin Pipeline Company, L.L.C.; Notice of Petition for Waiver of Tariff Provisions

April 2, 1999.

Take notice that on March 30, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing a petition for a limited waiver of its FERC Gas Tariff, Original Volume No. 1, in accordance with Section 161.3(b) of the Commission's Regulations, 18 CFR 161.3(b).

Destin requests a limited waiver of its Tariff to the extent necessary to make an adjustment to its shippers' transportation accounts for the months of September, 1998, through April, 1999.

In its initial months of operation, Destin has determined that its cashout provisions in Section 14 of the General Terms and Conditions of its Tariff can result in an inequity when a shipper's imbalance is a minor quantity, yet a large percentage of its monthly transported volume. For example, such a result could affect small working interest owners, shippers transporting Plant Thermal Reduction only, or shippers commencing service at the end of a month. Under Destin's current Tariff provision, the smallest system imbalances can incur the worst per unit cashout economics for a shipper.

Accordingly, Destin has filed on March 30, 1999, a proposed modification to Section 14 of the General Terms and Conditions of its Tariff to add a 5,000 Dth tolerance, within which a shipper will be cashed out at 100% of the High or Low Price, as applicable, regardless of the percentage of excess deliveries or receipts. This tariff change is proposed to be effective May 1, 1999.

In preparing its Tariff filing, Destin compiled a list of shippers from September, 1998, through February, 1999, with imbalances of less than 5,000 Dth that were subject to cashout tiers under Destin's Tariff. This information is attached as Appendix A to Destin's filing in this proceeding. Destin will make a subsequent informational filing in this proceeding to provide the list of shippers affected by the waiver for the period March–April, 1999, when such data is available.

Destin believes that any imbalances of less than 5,000 Dth occurring from September, 1998, through April, 1999, after which Destin's Tariff revision will be effective, should be cashed out at 100% of the High or Low Price, as applicable, rather than according to the premium tiers required in Section 14.1. Destin submits that the specific facts presented plus the inequitable result absent an adjustment constitute good cause for the Commission to grant a waiver of its Tariff to the extent necessary to allow Destin to make such an adjustment to its shippers' transportation accounts.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 9, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8703 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–13–000]

Distrigas of Massachusetts Corporation; Notice of Proposed Changes in FERC Gas Tariff

April 2, 1999.

Take notice that on March 31, 1999, Distrigas of Massachusetts Corporation (DOMAC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet, to become effective June 1, 1999:

Sixth Revised Sheet No. 94

DOMAC states that the purpose of this filing is to record semiannual changes in DOMAC's index of customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8695 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–270–000]

El Paso Natural Gas Company; Notice of Revenue Crediting Report

April 2. 1999.

Take notice that on March 31, 1999, El Paso Natural Gas Company (El Paso) tendered for filing its revenue crediting report for the calendar year 1998.

El Paso states that the report details El Paso's crediting of risk sharing revenues for the calendar year 1998 in accordance with Section 25.3 of the General Terms and Conditions of its Volume No. 1–A tariff.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 9, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8706 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–15–000]

Equitrans, L.P.; Notice of Proposed Change in FERC Gas Tariff

April 2, 1999.

Take notice that on March 31, 1999, Equitrans, L.P. (Equitrans), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective April 1, 1999:

Eleventh Revised Sheet No. 400
Fourteenth Revised Sheet No. 401

Equitrans states that this filing is made to update Equitrans' index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect the changes in contract activity. Equitrans requests a waiver of the Commission's notice requirements to permit the tariff sheets to take effect April 1, 1999, the first calendar quarter, in accordance with Order No. 581.

Equitrans states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8697 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–273–000]

Florida Gas Transmission Company; Notice of Request Under Blanket Authorization

April 2, 1999.

Take notice that on March 26, 1999, Florida Gas Transmission Company (FGT), P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP99–273–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point for Clearwater Gas System (Clearwater), located in Pasco County, Florida, under FGT's blanket certificate issued in Docket No. CP82–553–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

FGT proposes to construct, operate, and own an additional delivery point which will be coated on the Anclote Lateral, in Section 35, Township 26 South, Range 16 East, Pasco County, Florida. FGT states that the subject delivery point will include a tap, minor connecting pipe, electronic flow measurement equipment, and any other related appurtenant facilities necessary for FGT to transport for and deliver to Clearwater of up to 5,000 MMBtu per day and 1,825,000 MMBtu per year of natural gas. FGT declares that the proposed end-use of the gas will be commercial, industrial, and residential.

FGT states that Clearwater will reimburse FGT for the total costs of the proposed construction which is estimated to be $68,000 and includes Federal income tax gross-up. FGT asserts that Clearwater will construct, operate, and own the non-jurisdictional facilities which will include a meter and regulation station, minor piping, other related appurtenant facilities, and a fence and gate at the new station site.

FGT declares that the gas quantities proposed to be delivered by FGT to Clearwater at the subject delivery point will be within existing authorized levels of service and will have no incremental effect on FGT's pipeline system. Therefore, FGT asserts that the request, as proposed herein, will not impact their peak day deliveries nor will it impact FGT's annual gas deliveries to Clearwater.

Any person or the Commission staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commissions' Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for

authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8693 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–4–000]

Gulf States Transmission Corporation; Notice of Filing

April 2, 1999.

Take notice that on March 30, 1999, Gulf States Transmission Corporation (Gulf States), tendered for filing and acceptance Sub Second Revised Sheet No. 57 for inclusion in Gulf States FERC Gas Tariff, Original Volume No. 1. Gulf States requests that the revised tariff sheet be deemed effective February 12, 1999.

Gulf States that the tendered sheet is filed in compliance with the Order Accepting Tariff Sheets issued in this docket by the Federal Regulatory Energy Commission on March 17, 1999.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8698 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–268–000]

Mid Louisiana Gas Company; Notice of Proposed Changes in FERC Gas Tariff

April 2, 1999.

Take notice that on March 31, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective May 1, 1999:

Third Revised Sheet No. 77
Fourth Revised Sheet No. 78
Fourth Revised Sheet No. 79
Third Revised Sheet No. 87
Second Revised Sheet No. 88
Third Revised Sheet No. 157
Third Revised Sheet No. 166

Mid Louisiana states that the purpose of this filing is to comply with Commission Order No. 587–G, issued April 16, 1998 in Docket No. RM96–1–007 wherein the Commission adopted, by reference, certain standardized business procedures, Version 1.2 as submitted by the Gas Industry Standards Board (GISB).

Mid Louisiana requests that the Commission grant a waiver of the filing deadline as stipulated in the Order thereby allowing the indicated tariff sheets(s) be accepted to be effective May 1, 1999.

Pursuant to Section 154.7(a)(7) of the Commission's Regulations, Mid Louisiana respectfully requests waiver of any additional requirement of the Regulations in order to permit the tendered tariff sheet to become effective May 1, 1999, as submitted.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8704 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–5–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

April 2, 1999.

Take notice that on March 31, 1999, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheet to become, effective April 1, 1999.

Sixteenth Revised Sheet No. 9

National asserts that the purpose of this filing is to comply with the Commission's order issued February 16, 1996, in Docket No. RP94–367–000, *et al.*. Under Article I, Section 4, of the settlement approved in that order, National must redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 9.60 cents per dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20416, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve the make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8708 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–4–28–000]

Panhandle Eastern Pipe Line Company; Notice of Filing

April 2, 1999.

Take notice that on March 31, 1999, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing its Annual Flow Through of Cash-Out Revenues in Excess of Costs and Scheduling Charges Assessed Against Affiliates in accordance with Section 25 of the General Terms and Conditions (GT&C) of its FERC Gas Tariff, First Revised Volume No. 1.

Panhandle states that pursuant to Section 25(e) of the GT&C, the level of cash-out revenues in excess of costs and scheduling charges assessed against affiliates for the twelve months ended January 31, 1999, and the carryover amount established in Docket No. TM98–4–28–000 were not of sufficient magnitude to result in a reservation charge credit of at least one cent or a commodity charge credit of at least .01 cents. Accordingly, there will be no Section 25 adjustment in effect for the period May 1, 1999 through April 30, 2000. The net revenues for the twelve months ended January 31, 1999 will be carried over to be added to and considered with the net revenues in Panhandle's next filing made pursuant to Section 25 of the GT&C.

Panhandle further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be on or before April 9, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8707 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–14–000]

Southern Natural Gas Company; Notice of Refund Report

April 2, 1999.

Take notice that on March 31, 1999, Southern Natural Gas Company (Southern Natural) tendered for filing a Refund Report.

Southern Natural states that pursuant to Section 38.3 of the General Terms and Conditions of Southern Natural's Tariff the Refund Report sets forth Excess Storage Usage Charges to be refunded to Rate Schedule CSS customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 first Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before April 9, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to be proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8696 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP89–224–019]

Southern Natural Gas Company; Notice of GSR Refund Filing

April 2, 1999.

Take notice that on March 31, 1999, Southern Natural Gas Company (Southern) tendered for filing a refund report which calculates and allocates among its customers $947,157 of GSR amounts overcollected during 1998.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before April 9, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8701 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–269–000]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

April 2, 1999.

Take notice that on March 31, 1999, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of April 1, 1999:

Tariff Sheets Applicable to Contesting Parties:
Forty Sixth Revised Sheet No. 14
Sixty Seventh Revised Sheet No. 15
Forty Sixth Revised Sheet No. 16

Sixty Seventh Revised Sheet No. 17
Tariff Sheets Applicable to Settling Parties:
Thirty Second Revised Sheet No. 14a
Thirty Eighth Revised Sheet No. 15a
Thirty Second Revised Sheet No. 16a
Thirty Eighth Revised Sheet No. 17a

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN Southern Energy Cost Surcharge, due to a decrease in the FERC interest rate effective April 1, 1999.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8705 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP98–131–000 and CP98–133–000]

Vector Pipeline L.P.; Notice of Availability of the Final Environmental Impact Statement for the Proposed Vector Pipeline Project

April 2, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared a Final Environmental Impact Statement (FEIS) on the natural gas pipeline facilities proposed by Vector Pipeline L.P. in the above-referenced dockets.

The FEIS was prepared to satisfy the requirements of the National Environmental Policy Act. The staff concludes that approval of the proposed project with the appropriate mitigating measures as recommended, would have limited adverse environmental impact. The FEIS also evaluates alternatives to the proposal, including system alternatives; major route alternatives; and route variations.

The FEIS addresses the potential environmental effects of the construction and operation of the following facilities:

- The construction of 267.9 miles of 42-inch-diameter pipeline extending from Joliet, Illinois in Will County to Oakland County, Michigan (Segment 1);
- The lease of 58.8 miles of an existing 36-inch-diameter pipeline in Michigan from Oakland County to St. Clair County (Segment 2);
- The construction of 3.5 miles of 42-inch-diameter pipeline in St. Clair County, Michigan terminating at the border of the United States and Canada near St. Clair, Michigan (Segment 3);
- The construction of two new compressor stations, each with 30,000 horsepower of compression;
- The construction of five meter stations;
- The construction of 20 new mainline valves, two pig launchers, and one pig receiver; and
- The construction of permanent access roads for access to compressor stations and valves.

The purpose of the proposed facilities would be to transport about 1.0 billion cubic feet per day of natural gas from the Chicago hub to the terminus of Vector Canada at the Dawn, Ontario hub and to markets in Michigan.

The FEIS has been placed in the public files of the FERC and is available for public inspection at: Federal Energy Regulatory Commission, Public Reference and Files Maintenance Branch, 888 First Street, NE., Room 2A, Washington, DC 20426, (202) 208–1371.

Copies of the FEIS have been mailed to Federal, state and local agencies, public interest groups, individuals who have requested the FEIS, newspapers, and parties to this proceeding. The FEIS may also be viewed on the web at http://www.ferc.fed.us/online/rims.htm (please call (202) 208–2222 for assistance).

Additional information about the proposed project is available from Paul McKee in the Commission's Office of External Affairs, at (202) 208–1088.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8692 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4055–024]

Vernon Ravenscroft; Availability of Draft Environmental Assessment

April 2, 1999.

A draft environmental assessment (DEA) is available for public review. The DEA is for a proposed amendment to increase the crest elevation of the Ravenscroft Ranch Project's canal spillway by six inches and the height of the operating penstock intake structures by two feet and to increase the operating water level on the project canal by six inches. The DEA finds that approval of the proposed amendment would not constitute a major federal action significantly affecting the quality of the human environment. The Ravenscroft Ranch Project is located on the Malad River, in Gooding County, Idaho.

The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA are available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The DEA may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–222 for assistance.

Please submit any comments on the DEA within 30 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation. Comments should be addressed to: the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 4055–024 to all comments.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8718 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–279–000]

Williams Gas Pipeline Central, Inc., Notice of Request Under Blanket Authorization

April 2, 1999.

Take notice that on March 31, 1999, Williams Gas Pipelines Central, Inc.,

(Applicant), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP99–279–000 a request pursuant to Sections 157.205 and 157.216(b) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) for approval to abandon by reclaim the facilities used for the receipt of transportation natural gas from Apache Corporation (Apache) located in Hemphill County, Texas, under Applicant's blanket certificate issued in Docket Nos. CP82–479–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Applicant states that the facilities were originally installed by Applicant in 1996 to receive transportation gas from Apache. Applicant further states that Apache installed the meter run and, as a result, is the owner of this part of the facilities. It is indicated that Applicant installed the tap, electronic flow measurement, and appurtenant facilities. Applicant asserts that Apache has consented to the abandonment. Applicant's cost to reclaim the facilities is approximately $1,624.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to Section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities 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 30 days after the time allowed for filing a protest the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8694 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT99–8–000]

Williston Basin Interstate Company; Notice of Compliance Filing

April 2, 1999.

Take notice that on March 31, 1999, Williston Basin Interstate Pipeline Company (Williston Basin, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Tenth Revised Sheet No. 187, with an effective date of March 31, 1999.

Williston Basin is filing the proposed revision to its Tariff to reflect changes in Subsection 7.1 relating to shared policy making personnel. More specifically, Tenth Revised Sheet No. 187 was revised to reflect the fact that John K. Castleberry, President of Williston Basin, was named President and Chief Executive Officer of such company. This sheet also reflects the correction of two minor typographical errors.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8700 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11667-000.

c. *Date Filed:* February 1, 1989.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Pine Creek Dam.

f. *Location:* On the Little River in McCurtain Country, Oklahoma, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791 (a)-825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535-7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219-2811.

J. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project* The proposed project would utilize the existing U.S. Army Corps of Engineers' Pine Creek Dam and would consist of: (1) two new 100-foot-long, 52-inch-diamter penstocks; (2) a new 30-foot-long, 50-foot-wide, 20-foot-high powerhouse containing two generating units with a total installed capacity of 1,300-kW; (3) a new exhaust apron; (4) a new 6-mile-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 8 GWh and that the cost of the studies to be performed under the terms of the permit would be $650,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

1. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208-1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208-2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before, the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing

preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions To Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8709 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11668–000.

c. *Date Filed:* February 1, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Ballville Dam.

f. *Location:* On the Sandusky River in Sandusky County, Ohio.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would consist of: (1) the existing 423-foot-long, 34-foot-high concrete-gravity type dam; (2) a reservoir having an 89-acre surface area and a 524-acre-foot storage capacity at normal pool elevation 640.7-feet m.s.l.; (3) two new 22-foot-long, 47-inch-diameter steel penstocks; (4) a new 12-foot-long, 12-foot-wide, 10-foot-high powerhouse containing two generating units with a total installed capacity of 2,000-kW; (5) a new discharge apron; (6) a new 1-mile-long, 14.7-kV transmission line; and (7) appurtenant facilities. The existing facilities are owned by the city of Freemont, Ohio.

Applicant estimates that the average annual generation would be 13 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the

particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8710 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11669–000.

c. *Date Filed:* February 1, 1998.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Hugo Dam.

f. *Location:* On the Kiamichi River in Choctaw County, Oklahoma, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles. Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. *Deadline Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Hugo Dam and would consist of: (1) two new 70-foot-long, 96-inch-diameter steel penstocks; (2) a new 45-foot-long, 25-foot-wide, 15-foot-high powerhouse containing two generating units with a total installed capacity of 2,000-kW; (3) a new exhaust apron; (4) a new 2-mile-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 13 GWh and that the cost of the studies to be performed under the terms of the permit would be $800,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8711 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Request for Motions to Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11683–000.

c. *Date filed:* February 16, 1999.

d. *Applicant:* Universal Electric Power Corp.

e. *Name of Project:* Michael J. Kirwan Dam Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Michael J. Kirwan Dam on the Mahoning River, near the Town of Wayland, Portage Country, Ohio.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. §§ 791 (a)—825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Comment Date:* 60 days from the issuance date of this notice.

k. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Michael J. Kirwan Dam, and would consist of the following facilities: (1) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 1.323 megawatts; (2) a new .25-mile-long, 14.7-kilovolt transmission line; and (3) appurtenant facilities. The proposed average annual generation is estimated to be 8.11 gigawatthours. The cost of the studies under the permit will not exceed $750,000.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

m. Available Locations of Application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 North Capitol Street, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application preliminary specify which type of application). A notice of intent

must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to director, Division of project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8712 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted For Filing and Soliciting Comments, Motions to Intervene, and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11686–000.

c. *Date Filed:* February 22, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mosquito Creek Dam Hydroelectric Project.

f. *Location:* On the Mosquito Creek near the towns of Warren and Cortland, in Trumbull County, Ohio.

g. *Filed Pursuant to:* Federal Power Act, 16 USC §§ 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E–mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Project:* the project would be located at the existing U.S. Army Corps of Engineers Mosquito Creek Dam and would consist of the following proposed facilities: (1) A 50–foot–long, 54–inch–diameter penstock; (2) a powerhouse on the tailrace side of the dam housing a single turbine generating unit with an installed capacity of 990 kW; (3) a 200–foot–long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 6,000 MWh and that the cost of the studies under the permit would be $500,000.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary

permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8713 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions to Intervene, and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11687–000.

c. *Date Filed:* February 22, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Newburgh L&D Hydroelectric Project.

f. *Location:* On the Ohio River near the town of Newburgh, in Warrick County, Indiana, and the town of Henderson, in Henderson County, Kentucky.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Project:* The project would be located at the existing U.S. Army Corps of Engineers Newburgh Lock and Dam and would consist of the following proposed facilities: (1) eight 50-foot-long, 120-inch-diameter penstocks; (2) a powerhouse on the tailrace side of the dam housing eight turbine generating units with a total installed capacity of 15 MW; (3) a 1.5-mile-long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 92,000 MWh and that the cost of the studies under the permit would be $2,000,000.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8714 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 11688–000.

c. *Date Filed:* February 22, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Uniontown L&D Hydroelectric Project.

f. *Location:* On the Ohio River near the town of Morganfield, in Union County, Kentucky, and the town of Mount Vernon, in Posey County, Indiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Ronald S. Feltenberger, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone 202–219–2778.

j. *Deadline for filing comments, motions to intervene, and protests:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedures require all intervenors filing documents with the Commission to serve a copy of the document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Project:* The project would be located at the existing U.S. Army Corps of Engineers Uniontown Lock and Dam and would consist of the following proposed facilities: (1) eleven 50-foot-long, 120-inch-diameter penstocks; (2) a powerhouse on the tailrace side of the dam housing eleven turbine generating units with a total installed capacity of 22.5 kW; (3) a 500-foot-long, 14.7 kV transmission line; and (4) other appurtenances.

Applicant estimates that the average annual generation would be 138,000 MWh and that the cost of the studies under the permit would be $2,500,000.

l. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person

to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8715 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene, Protests, and Comments

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: 11690–000.

c. Date filed: March 1, 1999.

d. Applicant: Alaska Village Electric Cooperative, Inc.

e. Name of Project: Old Harbor.

f. Location: On Mountain and Lagoon Creeks in Kodiak Island Borough. The project is partially within the Kodiak National Wildlife Refuge, administered by the U.S. Fish and Wildlife Service.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Applicant Contact: Mr. Charles Y. Walls, General Manager, Alaska Village Electric Cooperative, Inc., 4831 Eagle Street, Anchorage, Alaska 99503–7497.

i. FERC Contact: Hector M. Pérez, hector.perez@ferc.fed.us, 202–219–2843.

j. Deadline for filing motions to intervene, protest and comments: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's rules of practice and procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. The project would consist of the following new facilities: (1) An intake structure on Mountain Creek at elevation 840 feet mean sea level; (2) a 16-inch-diameter 3,200-foot-long steel penstock; (3) a powerhouse with an installed capacity of 500 kilowatts discharging into Lagoon Creek; (4) a 5,500-foot-long 480-volt buried transmission line; and (5) other appurtenances.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license

application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protests, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8716 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent to File an Application for a New License

April 2, 1999.

a. Type of Filing: Notice of Intent to File An Application for a New License.

b. Project No.: 287.

c. Date Filed: March 23, 1999.

d. Submitted By: Midwest Hydro, Inc.-current licensee.

e. Name of Project: Dayton Hydroelectric Project.

f. Location: On the Fox River near the City of Dayton, in La Salle County, Illinois.

g. Filed Pursuant to: Section 15 of the Federal Power Act.

h. Licensee Contact: Midwest Hydro, Inc., P.O. Box 167, 116 State Street, Neshkoro, WI 54960, Loyal Gake, (920) 293–4628.

i. FERC Contact: Any questions on this notice should be addressed to Tom Dean, E-mail address, thomas.dean@ferc.fed.us, or telephone (202) 219–2778.

j. Effective date of current license: August 1, 1979.

k. Expiration date of current license: April 10, 2004.

l. Description of the Project: The project consists of the following existing facilities: (1) A 594-foot-long, 23-foot-high arch-buttress dam; (2) a 200-acre reservoir extending about 3.5 miles upstream from the dam; (3) an 800-foot-long canal; (4) a powerhouse containing three generating units with a total installed capacity of 3,680 kW; (5) transmission facilities; and (6) other appurtenances.

m. Each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by April 10, 2002.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8717 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. Type of Application: Major License.

b. Project No.: 10855–002.

c. Date filed: May 2, 1994.

d. Applicant: Upper Peninsula Power Company.

e. Name of Project: Dead River Hydroelectric Project.

f. Location: On the Dead River, in Marquette County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Clarence R. Fisher, President, Upper Peninsula Power Company, P.O. Box 130, 600 Lakeshore Drive, Houghton, MI 49931–0130, (906) 487–5000.

i. FERC Contact: Peter Leitzke, peter.leitzke@ferc.fed.us, or telephone (202) 219–2083.

j. Deadline for filing comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of Environmental Analysis: This application has been accepted, and is ready for environmental analysis at this time.

l. Description of Project: The constructed project consists of the following developments: The Silver Lake Dam Development consists of the following existing facilities: (1) The 1,500-foot-long, 30-foot-high earth embankment Silver Lake Dam; (2) a 100-foot-long, 7.7 foot-high concrete ogee crest spillway; (3) a 1,491-foot-long, 34-foot-high concrete gravity outlet structure; (4) four earthen saddle dikes consisting of: (a) 200-foot-long, 5-foot-high dike 1; (b) 370-foot-long, 7-foot-high dike 2; (c) 170-foot-long, 6-foot-high dike 3; (d) 290-foot-long, 5-foot-high dike 4; (4) a reservoir having a surface area of 1,464-acres with a storage capacity of 33,513 acre-feet, and a normal water surface elevation of 1,486.25 feet M.S.L. There is no generation proposed at this development.

The Hoist Dam Development consists of the following existing facilities: (1) The 674-foot-long earthen embankment and concrete gravity Hoist Dam with sections varying in height from 6 to 63 feet; (2) a reservoir having a surface area of 3,202 acres with a storage capacity of 46,998 acre-feet, and normal water surface elevation of 1.347.5 feet M.S.L.; (3) an intake structure; (4) a 342-foot-long, 9-foot-wide, 10-foot-high tunnel; (5) a 193-foot-long, 7-foot diameter steel penstock; (6) a powerhouse containing 3 generating units with a total installed capacity of 4.40 MW; (7) a tailrace; (8) an existing 33-kV transmission line; and (9) other appurtenances. The estimated average annual generation is 15,643 MWh.

The McClure Dam Development consists of the following existing facilities; (1) The 839-foot-long, earth embankment and concrete gravity McClure Dam varying in height from 22 to 51.4 feet; (2) a reservoir having a surface area of 95.9 acres with a storage capacity of 1,870 acre-feet, and normal water surface elevation of 1,196.4 feet M.S.L.; (3) an intake structure; (4) a 13,302-foot-long, 7-foot-diameter steel, wood, and concrete pipeline; (5) a 40-foot-high, 30-foot-diameter concrete surge tank; (6) a powerhouse containing 2 generating units with a total installed capacity of 8.0 MW; (7) a tailrace; (8) a 33-kV transmission line; and (9) other appurtenances. The estimated average annual generation is 48,452 MWh.

m. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on http://www.ferc.fed.us/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. This notice also consists of the following standard paragraph: D10

D10. Filing and Service Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS'', ''TERMS AND CONDITIONS'', or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8719 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: P–11626–000.

c. Date Filed: November 6, 1998.

d. Applicant: Universal Electric Power Corporation.

e. Name of Project: Sutton Dam.

f. Location: On the Elk River in Braxton County, West Virginia, utilizing federal facilities and lands administered by the U.S. Army Corps of Engineers.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. Deadline Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Sutton Dam and would consist of: (1) Five new 50-foot-long, 54-inch-diameter penstocks; (2) a new 50-foot-long, 40-foot-wide, 25-foot-high powerhouse containing five 740-kW generating units for a total installed capacity of 3,700-kW; (3) a new discharge apron; (4) a new 1,200-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 24 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. Locations of the application: A copy of the application is available for

inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims/htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'' ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8720 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions to Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: P–11627–000.

c. Date Filed: November 6, 1998.

d. Applicant: Universal Electric Power Corporation.

e. Name of Project: R.D. Bailey Dam.

f. Location: On the Guyandot River in Wyoming and Mingo Counties, West Virginia, utilizing federal facilities and lands administered by the U.S. Army Corps of Engineers.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. Deadline Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' R.D. Bailey Dam and would consist of: (1) Two new 50-foot-long, 42-inch-diameter penstocks; (2) a new 50-foot-long, 40-foot-wide, 25-foot-high powerhouse containing a 3,000-kW generating unit; (3) a new exhaust apron; (4) a new 900-foot-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 20 GWh and that the cost of the studies to be performed under the terms of the permit would be $1,000,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

l. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy

is also available for inspection and reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8721 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

April 2, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Preliminary Permit.

b. Project No.: P–11654–000.

c. Date Filed: December 31, 1998.

d. Applicant: Universal Electric Power Corporation.

e. Name of Project: Gillham Dam.

f. Location: On the Cossatot River in Howard County, Arkansas, utilizing federal lands administered by the U.S. Army Corps of Engineers.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Applicant Contact: Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. FERC Contact: Any questions on this notice should be addressed to Charles T. Raabe, E-mail address, Charles.Raabe@ferc.fed.us, or telephone (202) 219–2811.

j. Deadline Date: 60 days from the issuance date of this notice.

k. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Gillham Dam and would consist of: (1) Two new 45-foot-long, 36-inch-diameter steel penstocks; (2) a new 35-foot-long, 40-foot-wide, 25-foot-high powerhouse containing two 660-kW generating units for a total installed capacity of 1,320-kW; (3) a new exhaust apron; (4) a new one-mile-long, 14.7-kV transmission line; and (5) appurtenant facilities.

Applicant estimates that the average annual generation would be 7,500 MWh and that the cost of the studies to be performed under the terms of the permit would be $800,000. Project energy would be sold to utility companies, corporations, municipalities, aggregators, or similar entities.

1. Locations of the application: A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Washington, DC 20426, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). a copy is also available for inspection and

reproduction at the address in item h above.

m. This notice also consists of the following standard paragraphs: A5, A7, A9, A10, B, C, and D2.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

A10. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–8722 Filed 4–7–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[TRL 6320–9]

Science Advisory Board; Radiation Advisory Committee (RAC); Notification of Public Advisory Committee Meeting Open Teleconference Meeting

Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, notice is hereby given that the Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC) will conduct a public teleconference meeting from 4:00 p.m. to 6:00 p.m. eastern time on Tuesday, April 27, 1999. for those wishing to physically attend the meeting, it will be held in the SAB Conference Room 3709 Waterside Mall, EPA Headquarters, 401 M Street, SW, Washington, DC 20460.

All times noted are Eastern Time. The meeting is open to the public, however, due to limited space, seating at the meeting will be on a first-come basis. Important Notice: Documents that are the subject of SAB reviews are normally available from the originating EPA office and are not available from the SAB Office. Information concerning availability of documents from the relevant Program Office is included below.

At this meeting, the RAC will attempt to reach closure on its April, 1999 draft advisory of an Office of Radiation and Indoor Air (ORIA) draft white paper. The ORIA draft white paper (37 pages in length) entitled ''Proposed EPA Methodology for Assessing Risks from Indoor Radon Based on BEIR VI,'' dated February, 1999, proposes a methodology for assessing cancer risks from indoor radon in light of the National Academy of Sciences (NAS) Biological Effects of Ionizing Radiation (BEIR VI) committee document. The draft SAB/RAC advisory in review of the ORIA draft white paper focuses on the technical aspects of the Agency's methodology report. The first public meeting which initiated the advisory began on March 24, 1999 (see **Federal Register**, Vol. 64, No. 41, Wednesday, March 3, 1999, pp. 10294–10295). The charge questions to be answered include, but are not limited to the following:

(a) Is the overall approach of using the BEIR VI age-concentration model acceptable? (BEIR VI gives model options);

(b) What advice does the RAC have on refinements and extensions we (the Agency) are considering?; and

(c) Have we (the Agency) adequately accounted for the sources of uncertainty?

FOR FURTHER INFORMATION CONTACT: Members of the public wishing further information concerning the teleconference meeting, such as copies of the proposed meeting agenda or RAC draft advisory dated April, 1999, or who wish to submit written comments should contact Mrs. Diana L. Pozun at (202) 260–8432; fax (202) 260–7118, or via E-Mail: pozun.diana@epa.gov. Members of the public who wish to make a brief oral presentation to the Committee must contact Dr. K. Jack Kooyoomjian *in writing* (by letter or by fax—see contact information below) no later than 12 noon Eastern Time, Tuesday, April 20, 1999 in order to be included on the Agenda. In general, public comments at teleconferences will be normally limited to three minutes per speaker or organization. The request should identify the name of the individual making the presentation, the organization (if any) they will represent, and at least 35 copies of an outline of the issues to be addressed or of the presentation itself.

The SAB expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date, may be mailed to the relevant SAB committee or subcommittee prior to its meeting; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting. For further information, contact Dr. K. Jack Kooyoomjian, Designated Federal Officer for the Radiation Advisory Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)–260–2560; fax (202)–260–7118; or via E-Mail at: kooyoomjian.jack@epa.gov.

For questions pertaining to the white paper, please contact Dr. Mary E. Clark, (6601J), ORIA, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, tel. (202) 564–9348; fax (202)–565–2043; or E-mail: clark.marye@epa.gov. Documents pertaining to BEIR VI may also be obtained on the world wide web at the following address: http://www.nap.edu/reading room/ and search on ''radon.''

Additional information concerning the SAB, its structure, function, and composition, may be found on the SAB Website (http://www.epa.gov/sab) and in The annual Report of the Staff Director which is available from the SAB Publications Staff at (202) 260–4126 or via fax at (202) 260–1889. Individuals requiring special accommodation at SAB meetings, including wheelchair access, should contact Dr. Kooyoomjian or Mrs. Pozun at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: April 1, 1999.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 99–8650 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30471; FRL–6064–4]

Novartis; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing new active ingredients not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by May 10, 1999.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30471] and the file symbols to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Environmental Protection Agency, Rm. 119, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Cynthia Giles-Parker, Product Manager (PM-22), Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 247, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703 305–7740, e-mail: giles-parker.cynthia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered products pursuant to the provision of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

I. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 100–ORO. Applicant: Novartis Crop Protection, P.O. Box 18300, Greensboro, NC 27419–8300. Product Name: CGA-279202 WG. Fungicide. Active ingredient: Trifloxystrobin 50.0%. Proposed classification/Use: General. For control of certain diseases on pome fruits, peanuts, grapes, curcurbits, and bananas.

2. File Symbol: 100–ORI. Applicant: Novartis Crop Protection. Product Name: CGA-279202 Technical. Fungicide. Active ingredient: Trifloxystrobin 98%. Proposed classification/Use: General. For formulating use only.

3. File Symbol: 100–OEN. Applicant: Novartis Crop Protection. Product Name: CGA-279202 WG Turf. Fungicide. Active ingredient: Trifloxystrobin 50.0%. Proposed classification/Use: General. For use on turf grass.

Notice of approval or denial of an application to register a pesticide product will be announced in the **Federal Register**. The procedure for requesting data will be given in the **Federal Register** if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

II. Public Record and Electronic Submissions

The official record for this notice, as well as the public version, has been established for this notice under docket number [OPP–30471] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official notice record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP–30471]. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pest, Product registration.

Dated: March 30, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 99–8774 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–869; FRL–6071–2]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–869, must be received on or before May 10, 1999.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 119 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: The product manager listed in the table below:

Product Manager	Office location/telephone number	Address
Sidney Jackson	Rm. 272, CM #2, 703–305–7610, e-mail:jackson.sidney@epamail.epa.gov.	1921 Jefferson Davis Hwy, Arlington, VA
Lisa D. Jones	Rm. 259, CM #2, 703–308–9424, e-mail:jones.lisa@epamail.epa.gov.	Do.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–869] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:
opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number (insert docket number) and appropriate petition number. Electronic comments on notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 2, 1999.

onald R. Stubbs, Acting

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods

available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. Interregional Research Project No. 4 (IR-4)

PP 6E4766, 7E4898, 7E4899

EPA has received pesticide petitions [6E4766, 7E4898, 7E4899] from the Interregional Research Project Number 4 (IR-4) New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing tolerances for residues of the insecticide imidacloprid [1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine and its metabolites containing the 6-chloropyridinyl moiety, all expressed as 1-[(6-chloro-3-pyridinyl)methyl]-N-nitro-2-imidazolidinimine, in or on the raw agricultural commodities (RAC):

1. *PP 6E4766* proposes the establishment of a tolerance for cucurbits vegetables (Crop Group 9) at 0.5 parts per million (ppm).

2. *PP 7E4898* proposes the establishment of a tolerance for tuberous and corm vegetables at 0.3 ppm and dasheen (taro) at 3.5 ppm.

3. *PP 7E4899* proposes the establishment of a tolerance for watercress, upland at 3.5 ppm.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these petitions. Additional data may be needed before EPA rules on these petitions. Imidacloprid is produced by the Bayer Corporation (Bayer), the registrant.

A. Residue Chemistry

1. *Plant and animal metabolism*. The nature of the imidacloprid residue in plants and livestock is adequately understood. The residues of concern are combined residues of imidacloprid and it metabolites containing the 6-chloropyridinyl moiety, all calculated as imidacloprid.

2. *Analytical method*. The analytical method is a common moiety method for imidacloprid and its metabolites containing the 6-chloropyridinyl moiety using a permanganate oxidation, silyl derivatization, and capillary gas chromatography mass spectrometry (GC/MS) selective monitoring. This method has successfully passed a petition method validation in EPA labs. There is a confirmatory method specifically for imidacloprid and several metabolites utilizing GC/MS and high performance liquid chromotography using ultra-violet detection (HPLC-UV) which has been validated by the EPA as well. Imidacloprid and its metabolites are stable for at least 24 months in the commodities when frozen.

3. *Magnitude of residues*. For cucurbits, IR-4 performed 6 trials on cucumber, 6 trials on summer squash, and 6 trials on cantaloupe spread over two growing seasons (1992 and 1993). Trials conducted during the 1992 growing season used the following use pattern: i) a plant drench plus foliar applications, ii) a plant drench, iii) an in-furrow, and iv) a sidedress application. In 1993, IR-4 performed work on only the plant drench plus foliar treatment use pattern with a zero day pre-harvest interval (PHI).

The use pattern with the highest residue levels was the plant drench plus foliar application with a zero day. The maximum residues observed were 0.39 ppm for melon, 0.34 ppm for cucumber, and 0.28 ppm for summer squash. These maximum levels are all very similar and support the crop group concept and proposed 0.5 ppm proposed tolerance for imidacloprid on cucurbit vegetables.

Bayer believes that the data used to support the establishment of the imidacloprid 3.5 ppm leafy greens tolerance can be used to extend the tolerance to cover upland watercress. This is based on the similarities of upland watercress to upland cress and garden cress (members of crop subgroup 4A). The use patterns and restrictions for use on upland watercress would be the same as currently registered for garden cress and upland cress.

Even at exaggerated rates, imidacloprid residues in the potato tubers were only 0.25 ppm. Therefore, IR-4 contends that a crop subgroup tolerance for tuberous and corm vegetables to include dasheen (taro) is justified and appropriate, and no additional crop-specific data are required.

Although Dasheen (taro) leaves are seldom consumed, they are occasionally harvested from dasheen (taro) plantings grown primarily for the corms. In support of the proposed tolerance on dasheen (taro) leaves, IR-4 has noted that a tolerance of 3.5 ppm has been established on lettuce under pesticide petition (PP) 3F4231. IR-4 is requesting that the EPA use the data presented in PP 3F4231 to establish a tolerance for dasheen (taro) leaves. The proposed use pattern on taro does not include any foliar applications of imidacloprid. Therefore, it is unlikely that imidacloprid residues in or on taro leaves would exceed the proposed 3.5 ppm tolerance.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral lethal dose $(LD)_{50}$ values for imidacloprid technical ranged from 424-475 milligram/kilogram body weight (mg/kg bwt) in the rat. The acute dermal LD_{50} was greater than 5,000 mg/kg in rats. The 4-hour rat inhalation lethal concentration $(LC)_{50}$ was > 69 mg/cubic meters (m 3) air (aerosol). Imidacloprid was not irritating to rabbit skin or eyes. Imidacloprid did not cause skin sensitization in guinea pigs.

2. *Genotoxicty*. Extensive mutagenicity studies conducted to investigate point and gene mutations, DNA damage and chromosomal aberration, both using *in vitro* and *in vivo* test systems show imidacloprid to be non-genotoxic.

3. *Reproductive and developmental toxicity*. A 2-generation rat reproduction study gave a no-observed adverse effect level (NOAEL) of 100 ppm (8 mg/kg bwt). Rat and rabbit developmental toxicity studies were negative at doses up to 30 mg/kg bwt and 24 mg/kg bwt, respectively.

4. *Subchronic toxicity*. 90-day feeding studies were conducted in rats and dogs. The NOAEL's for these tests were 14 mg/kg bwt/day (150 parts per million (ppm)) and 5 mg/kg bwt/day (200 ppm) for the rat and dog studies, respectively.

5. *Chronic toxicity/carcinogenicity*. A 2-year rat feeding/carcinogenicity study was negative for carcinogenic effects under the conditions of the study and had a NOAEL of 100 ppm (5.7 mg/kg/bwt in male and 7.6 mg/kg bwt female) for noncarcinogenic effects that included decreased body weight gain in females at 300 ppm and increased thyroid lesions in males at 300 ppm and females at 900 ppm. A 1-year dog feeding study indicated a NOAEL of 1,250 ppm (41 mg/kg bwt). A 2-year mouse carcinogenicity study that was negative for carcinogenic effects under conditions of the study and had a NOAEL of 1,000 ppm (208 mg/kg/day).

Imidacloprid has been classified under ''Group E'' (no evidence of carcinogenicity) by EPA's reference dose (RfD) committee. There is no cancer risk associated with exposure to this chemical. The RfD based on the 2-year rat feeding/carcinogenic study with a NOAEL of 5.7 mg/kg bwt and 100-fold uncertainty factor, is calculated to be 0.057 mg/kg bwt.

6. *Endocrine disruption*. The toxicology database for imidacloprid is

current and complete. Studies in this database include evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following short- or long-term exposure. These studies revealed no primary endocrine effects due to imidacloprid.

C. Aggregate Exposure

Imidacloprid is a broad-spectrum insecticide with excellent systemic and contact toxicity characteristics with both food and non-food uses. Imidacloprid is currently registered for use on various food crops, tobacco, turf, ornamentals, buildings for termite control, and cats and dogs for flea control. Those potential exposures are addressed below:

1. *Dietary exposure*. For purposes of assessing the potential acute and chronic dietary exposure, the registrant, Bayer, has estimated exposure based on the Theoretical Maximum Residue Contribution (TMRC). The TMRC is obtained by using a model which multiplies the tolerance level residue for each commodity by consumption data. The consumption data, based on the National Food Consumption Survey (NFCS) 1989-92 data base, estimates the amount of each commodity and products derived from the commodities that are eaten by the U.S. population and various population subgroups.

i. *Acute*. For acute dietary exposure the model calculates a margin of exposure (MOE) by dividing the estimated human exposure into the NOAEL from the appropriate animal study. Commonly, EPA finds MOEs lower than 100 to be unacceptable. The EPA has determined that a NOAEL of 24 mg/kg/day from a developmental toxicity study in rabbits should be used to assess acute toxicity and the risk assessment should evaluate acute exposure to females 13 years.

The MOE for imidacloprid derived from previously established tolerances, including time limited tolerances, plus the use on dasheen (taro) proposed by IR-4 would be 628 for the U.S. population (48 States), 258 for nursing infants, and 929 for females 13+ years at the 99 percentile. These MOEs do not exceed the EPA's level of concern for acute dietary exposure.

ii. *Chronic*. The EPA has determined that the RfD based on the 2-year rat feeding/carcinogenic study with a NOAEL of 5.7 mg/kg bwt and 100-fold uncertainty factor, is calculated to be 0.057 mg/kg bwt. As published in the **Federal Registers** of December 13, 1995 (60 FR 64006), and June 12, 1996 (61 FR 2674) (petition to establish tolerances on leafy green vegetables (PP 5F4522/R2237)), the TMRC from published uses is 0.008358 mg/kg bwt/day which utilizes 14.7% of the RfD for the general population. For the most highly exposed subgroup in the population, non-nursing infants (< 1 year old), the TMRC for the published tolerances is 0.01547 mg/kg/day, which utilizes 27.1% of the RfD. Using these conservative assumptions, Bayer has determined that the TMRC from published and proposed uses is 0.008498 mg/kg bwt/day (15% of the RfD) for the general population and 0.015684 mg/kg/day (27.5% of the RfD) for the most highly exposed subgroup in the population, non-nursing infants (< 1 year old). Therefore, Bayer concludes that dietary exposure from the existing uses and proposed uses on cucurbits will not exceed the reference dose for any subpopulation (including infants and children).

iii. *Drinking water*. The EPA has determined that imidacloprid is persistent and could potentially leach into groundwater. However, there is no established Maximum Contamination Level (MCL) or health advisory levels established for imidacloprid in drinking water. EPA's ''Pesticides in Groundwater Database'' has no entry for imidacloprid. In addition, Bayer is not aware of imidacloprid being detected in any wells, ponds, lakes, streams, etc. from its use in the U.S. In studies conducted in 1995, imidacloprid was not detected in 17 wells on potato farms in Quebec, Canada. Therefore, Bayer concludes that contributions to the dietary burden from residues of imidacloprid in water would be inconsequential.

2. *Non-dietary exposure*—i. *Residential Turf*. Bayer has conducted an exposure study to address the potential exposures of adults and children from contact with imidacloprid treated turf. The population considered to have the greatest potential exposure from contact with pesticide treated turf soon after pesticides are applied are young children. Margins of safety (MOS) of 7,587 - 41,546 for 10-year old children and 6,859 - 45,249 for 5-year old children were estimated by comparing dermal exposure doses to the imidacloprid NOAEL of 1,000 mg/kg/day established in a 15-day dermal toxicity study in rabbits. The estimated safe residue levels of imidacloprid on treated turf for 10-year old children ranged from 5.6 - 38.2 $\mu g/cm^2$ and for 5-year old children from 5.1 - 33.5 $\mu g/cm^2$. This compares with the average imidacloprid transferable residue level of 0.080 $\mu g/cm^2$ present immediately after the sprays have dried. These data indicate that children can safely contact imidacloprid-treated turf as soon after application as the spray has dried.

ii. *Termiticide— Imidacloprid is registered as a termiticide*. Due to the nature of the treatment for termites, exposure would be limited to that from inhalation and was evaluated by Bayer. Data indicate that the MOS for the worst case exposures for adults and infants occupying a treated building who are exposed continuously (24 hours/day) are 8.0×10^7 and 2.4×10^8, respectively - and exposure can thus be considered negligible.

iii. *Tobacco smoke*. Studies have been conducted to determine residues in tobacco and the resulting smoke following treatment. Residues of imidacloprid in cured tobacco following treatment were a maximum of 31 ppm (7 ppm in fresh leaves). When this tobacco was burned in a pyrolysis study only 2% of the initial residue was recovered in the resulting smoke (main stream plus side stream). This would result in an inhalation exposure to imidacloprid from smoking of approximately 0.0005 mg per cigarette. Using the measured subacute rat inhalation NOAEL of 5.5 mg/m^3, Bayer believes that exposure to imidacloprid from smoking (direct and/or indirect exposure) would not be significant.

iv. *Pet treatment*. Bayer concludes that human exposure from the use of imidacloprid to treat dogs and cats for fleas does not pose unacceptable risks to human health since imidacloprid is not an inhalation or dermal toxicant and that while dermal absorption data are not available, imidacloprid is not considered to present a hazard via the dermal route.

D. Cumulative Effects

No other chemicals having the same mechanism of toxicity are currently registered, therefore, Bayer concludes that there is no risk from cumulative effects from other substances with a common mechanism of toxicity.

E. Safety Determination

1. *U.S. population—U.S. population in general*. Using the conservative exposure assumptions described above and based on the completeness and reliability of the toxicity data, Bayer concludes that total aggregate exposure to imidacloprid from all current uses including those currently proposed will utilize little more than 15% of the RfD for the U.S. population. EPA generally has no concerns for exposures below 100% of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. Thus, it can be

concluded that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of imidacloprid, the data from developmental studies in both rat and rabbit and a 2-generation reproduction study in the rat have been considered. The developmental toxicity studies evaluate potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates effects from exposure to the pesticide on the reproductive capability of mating animals through 2-generations, as well as any observed systemic toxicity.

FFDCA Section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post- natal effects and the completeness of the toxicity database. Based on current toxicological data requirements, the toxicology database for imidacloprid relative to pre- and post-natal effects is complete. Further for imidacloprid, the NOAEL of 5.7 mg/kg bwt from the 2-year rat feeding/carcinogenic study, which was used to calculate the RfD (discussed above), is already lower than the NOAELs from the developmental studies in rats and rabbits by a factor of 4.2 to 17.5 times. Since a 100-fold uncertainty factor is already used to calculate the RfD, Bayer surmises that an additional uncertainty factor is not warranted and that the RfD at 0.057 mg/kg bwt/day is appropriate for assessing aggregate risk to infants and children.

Using the conservative exposure assumptions described above under aggregate exposure, Bayer has determined from a chronic dietary analysis that the percent of the RfD utilized by aggregate exposure to residues of imidacloprid ranges from 9.3% for nursing infants up to 32.2% for children (1-6 years). EPA generally has no concern for exposure below 100% of the RfD. In addition, the MOEs for all infant and children population groups do not exceed EPA's level of concern for acute dietary exposure. Therefore, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, Bayer concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the residues of imidacloprid, including all anticipated dietary exposure and all other non-occupational exposures.

F. International Tolerances

No CODEX Maximum Residue Levels (MRLs) have been established for residues of imidacloprid on any crops at this time.

2. IR-4 Project

PP 8E5034

EPA has received a pesticide petition (8E5034) from the Interregional Research Project Number 4 (IR-4), proposing pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of the insecticide, spinosad in or on the raw agricultural commodities (RAC) tuberous and corm vegetables (crop subgroup 1C) at 0.03 parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition. Spinosad is produced by Dow AgroSciences, Inc. (Dow), the registrant,

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of spinosad in plants (apples, cabbage, cotton, tomato, and turnip), and animals (goats and poultry) is adequately understood for the purposes of this tolerance. A rotational crop study showed no carryover of measurable spinosad related residues in representative test crops.

2. *Analytical method*. There is a practical method (immunoassay) for detecting (0.005 ppm) and measuring (0.01 ppm) levels of spinosad in or on food with a limit of detection that allows monitoring of food with residues at or above the level set for this tolerance. The method has had a successful method tryout in the EPA's laboratories.

3. *Magnitude of residues*. Magnitude of residue studies were conducted for potatoes at 14 sites. No quantifiable residues were observed in treated field samples at an application rate of 0.11 pounds active ingredient (lb a.i.) per acre or at an exaggerated application rate of 0.55 lb a.i. per acre. A potato processing study is not required because there were no quantifiable residues in the RAC even at the 5x application rate (5x is the maximum theoretical concentration factor for potato). Potato is the representative crop for the tuberous and corm vegetables crop subgroup 1C.

B. Toxicological Profile

1. *Acute toxicity—Spinosad has low acute toxicity*. The rat oral lethal dose $(LD)_{50}$ is 3,738 milligram kilogram (mg/kg) for males and > 5,000 mg/kg for females, whereas the mouse oral LD_{50} is > 5,000 mg/kg. The rabbit dermal LD_{50} is > 5,000 mg/kg and the rat inhalation lethal concentration $(LC)_{50}$ is > 5.18 mg/liter(l) air. In addition, spinosad is not a skin sensitizer in guinea pigs and does not produce significant dermal or ocular irritation in rabbits. End use formulations of spinosad that are water based suspension concentrates have similar low acute toxicity profiles.

2. *Genotoxicty*. Short term assays for genotoxicity consisting of a bacterial reverse mutation assay (Ames test), an *in vitro* assay for cytogenetic damage using the Chinese hamster ovary cells, an *in vitro* mammalian gene mutation assay using mouse lymphoma cells, an *in vitro* assay for DNA damage and repair in rat hepatocytes, and an *in vivo* cytogenetic assay in the mouse bone marrow (micronucleus test) have been conducted with spinosad. These studies show a lack of genotoxicity.

3. *Reproductive and developmental toxicity*. Spinosad caused decreased body weights in maternal rats given 200 mg/kg/day by gavage, highest dose tested (HTD). This was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The no-observed adverse effect levels (NOAELs) for maternal and fetal toxicity in rats were 50 and 200 mg/kg/day, respectively. A teratology study in rabbits showed that spinosad caused decreased body weight gain and a few abortions in maternal rabbits given 50 mg/kg/day, HTD. Maternal toxicity was not accompanied by either embryo toxicity, fetal toxicity, or teratogenicity. The NOAELs for maternal and fetal toxicity in rabbits were 10 and 50 mg/kg/day, respectively. In a 2-generation reproduction study in rats, parental toxicity was observed in both males and females given 100 mg/kg/day HTD. Perinatal effects (decreased litter size and pup weight) at 100 mg/kg/day were attributed to maternal toxicity. The NOAEL for maternal and pup effects was 10 mg/kg/day.

4. *Subchronic toxicity*. Spinosad was evaluated in 13-week dietary studies and showed NOAELs of 4.89 and 5.38 mg/kg/day, respectively in male and female dogs; 6 and 8 mg/kg/day, respectively in male and female mice; and 33.9 and 38.8 mg/kg/day, respectively in male and female rats. No dermal irritation or systemic toxicity occurred in a 21-day repeated dose dermal toxicity study in rabbits given 1,000 mg/kg/day.

5. *Chronic toxicity*. Based on chronic testing with spinosad in the dog and the rat, the EPA has set a reference dose (RfD) of 0.027 mg/kg/day for spinosad. The RfD has incorporated a 100-fold safety factor to the NOAELs found in the chronic dog study to account for inter- and intra-species variation. The NOAELs shown in the dog chronic study were 2.68 and 2.72 mg/kg/day, respectively for male and female dogs. The NOAELs (systemic) shown in the rat chronic/carcinogenicity/ neurotoxicity study were 9.5 and 12.0 mg/kg/day, respectively for male and female rats. Using the Guidelines for Carcinogen Risk Assessment published September 24, 1986 (51 FR 33992), it is proposed that spinosad be classified as Group E for carcinogenicity (no evidence of carcinogenicity) based on the results of carcinogenicity studies in two species. There was no evidence of carcinogenicity in an 18-month mouse feeding study and a 24-month rat feeding study at all dosages tested. The NOAELs shown in the mouse carcinogenicity study were 11.4 and 13.8 mg/kg/day, respectively for male and female mice. A maximum tolerated dose was achieved at the top dosage level tested in both of these studies based on excessive mortality. Thus, the doses tested are adequate for identifying a cancer risk. Accordingly, a cancer risk assessment is not needed.

6. *Animal metabolism*. There were no major differences in the bioavailability, routes or rates of excretion, or metabolism of spinosyn A and spinosyn D following oral administration in rats. Urine and fecal excretions were almost completed in 48-hours post-dosing. In addition, the routes and rates of excretion were not affected by repeated administration.

7. *Metabolite toxicology*. The residue of concern for tolerance setting purposes is the parent material (spinosyn A and spinosyn D). Thus, there is no need to address metabolite toxicity.

8. *Neurotoxicity*. Spinosad did not cause neurotoxicity in rats in acute, subchronic or chronic toxicity studies.

9. *Endocrine disruption*. There is no evidence to suggest that spinosad has an effect on any endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*—i. *Food*. For purposes of assessing the potential dietary exposure from use of spinosad on tuberous and corm vegetables as well as from other existing and pending spinosad crop uses, a conservative estimate of aggregate exposure is determined by basing the theoretical maximum residue concentration (TMRC) on the proposed tolerance level for spinosad and assuming that 100% of these proposed new crops and other pending and existing (registered for use) crops grown in the United State were treated with spinosad. The TMRC is obtained by multiplying the tolerance residue levels by the consumption data which estimates the amount of crops and related food stuffs consumed by various population subgroups. The use of a tolerance level and 100% of crop treated clearly results in an overestimate of human exposure and a safety determination for the use of spinosad on crops cited in this summary that is based on a conservative exposure assessment.

ii. *Drinking water*. Another potential source of dietary exposure are residues in drinking water. Based on the available environmental studies conducted with spinosad wherein it's properties show little or no mobility in soil, Dow concludes that there is no anticipated exposure to residues of spinosad in drinking water. In addition, there is no established maximum concentration level (MCL) for residues of spinosad in drinking water.

2. *Non-dietary exposure*. Spinosad is currently registered for use on a number of crops including cotton, fruits, and vegetables in the agriculture environment. Spinosad is also currently registered for outdoor use on turf and ornamentals at low rates of application (0.04 to 0.54 lb a.i. per acre) and indoor use for drywood termite control (extremely low application rates used with no occupant exposure expected). Thus, Dow believes that the potential for non-dietary exposure to the general population is considered negligible.

D. Cumulative Effects

The potential for cumulative effects of spinosad and other substances that have a common mechanism of toxicity is also considered. In terms of insect control, spinosad causes excitation of the insect nervous system, leading to involuntary muscle contractions, prostration with tremors, and finally paralysis. These effects are consistent with the activation of nicotinic acetylcholine receptors by a mechanism that is clearly novel and unique among known insecticidal compounds. Spinosad also has effects on the gamma aminobatopic acid (GABA) receptor function that may contribute further to its insecticidal activity. Based on results found in tests with various mammalian species, spinosad appears to have a mechanism of toxicity like that of many amphiphilic cationic compounds. There is no reliable information to indicate that toxic effects produced by spinosad would be cumulative with those of any other pesticide chemical. Thus Dow contends that it is appropriate to consider only the potential risks of spinosad in an aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. Using the conservative exposure assumptions and the proposed RfD described above, the aggregate exposure to spinosad use on tuberous and corm vegetables and other pending and existing crop uses will utilize 25.5% of the RfD for the U.S. population. A more realistic estimate of dietary exposure and risk relative to a chronic toxicity endpoint is obtained if average (anticipated) residue values from field trials are used. Inserting the average residue values in place of tolerance residue levels produces a more realistic, but still conservative risk assessment. Based on average or anticipated residues in a dietary risk analysis, the use of spinosad on tuberous and corm vegetables and other pending and existing crop uses will utilize 4.1% of the RfD for the U.S. population. EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Thus, Dow believes that there is reasonable certainty that no harm will result from aggregate exposure to spinosad residues on existing and pending crop uses.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of spinosad, data from developmental toxicity studies in rats and rabbits and a 2-generation reproduction study in the rat are considered. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability and potential systemic toxicity of mating animals and on various parameters associated with the well-being of pups.

FFDCA Section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database for spinosad relative to pre- and post-natal effects for children is complete. Further, for spinosad, the NOAELs in the dog chronic feeding study which was used to calculate the

RfD (0.027 mg/kg/day) are already lower than the NOAELs from the developmental studies in rats and rabbits by a factor of more than 10-fold.

Concerning the reproduction study in rats, the pup effects shown at the HDT were attributed to maternal toxicity. Therefore, the registrant concludes that an additional uncertainty factor is not needed and that the RfD at 0.027 mg/kg/day is appropriate for assessing risk to infants and children.

In addition, the EPA has determined that the 10x factor to account for enhanced sensitivity of infants and children is not needed because:

i. The data provided no indication of increased susceptibility of rats or rabbits to in utero and/or post-natal exposure to spinosad. In the prenatal developmental toxicity studies in rats and rabbits and two-generation reproduction in rats, effects in the offspring were observed only at or below treatment levels which resulted in evidence of parental toxicity.

ii. No neurotoxic signs have been observed in any of the standard required studies conducted.

iii. The toxicology data base is complete and there are no data gaps.

Using the conservative exposure assumptions previously described (tolerance level residues), the percent RfD utilized by the aggregate exposure to residues of spinosad on tuberous and corm vegetables and other pending and existing crop uses is 51.2% for children 1 to 6 years old, the most sensitive population subgroup. If average or anticipated residues are used in the dietary risk analysis, the use of spinosad on these crops will utilize 9.4% of the RfD for children 1 to 6 years old. Thus, based on the completeness and reliability of the toxicity data and the conservative exposure assessment, the registrant concludes that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to spinosad residues on the above proposed use including other pending and existing crop uses.

F. International Tolerances

There are no Codex maximum residue levels established for residues of spinosad on tuberous and corm vegetables or any other food or feed crop.

3. Zeneca Ag. Products

PP 7F4854, 7F4876, and 7F4853

EPA has received pesticide petitions [7F4854, 7F876, and 7F4853] from Zeneca Ag.Products, 1800 Concord Pike, P. O. Box 15458, Wilmington, DE 19850-5458 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of sulfosate (the trimethylsulfonium salt of glyphosate, also known as glyphosate-trimesium in or on the raw agricultural commodity (RAC) the fruiting vegetables (except cucurbits) group at 0.05 ppm; the edible-podded legume vegetables subgroup at 0.5 ppm (of which no more than 0.3 ppm is trimethylsulfonium (TMS)), the succulent shelled pea and bean subgroup at 0.2 ppm (of which no more than 0.1 ppm is TMS); the dried shelled pea and bean (except soybean) subgroup at 6 ppm (of which no more than 1.5 ppm is TMS); in cattle, goat, hog, sheep, and horse kidney at 3.5 ppm; in cattle, goat, hog, sheep, and horse meat by-products, except liver and kidney, at 2.5 ppm; and to increase the tolerance in cattle, goat, hog, sheep, and horse fat to 0.2 ppm; in cattle, goat, hog, sheep, and horse meat to 0.6 ppm; in cattle, goat, hog, sheep, and horse liver to 0.75 ppm; in milk to 1.1 ppm; in poultry liver to 0.1 ppm; in poultry meat by-products to 0.25 ppm; in or on soybean seed to 21 ppm (of which no more than 13 ppm is TMS); in soybean hulls to 45 ppm (of which no more than 25 ppm is TMS); and in aspirated grain fractions to 1,300 ppm (of which no more than 720 ppm is TMS) at parts per million (ppm). EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of sulfosate has been studied in corn, grapes, and soybeans. EPA has concluded that the nature of the residue is adequately understood and that the only residues of concern are the parent ionsN-(phosphonomethyl)-glycine anion (PMG) and trimethylsulfonium cation (TMS).

2. *Analytical method*. Gas chromatography/mass selective (GC/MS) detector methods have been developed for PMG analysis in crops, animal tissues, milk, and eggs. Gas chromatography detection methods have been developed for TMS in crops, animal tissues, milk, and eggs.

3. *Magnitude of residues*—i. *Magnitude of residues in crops—Soybeans*. Residue data are available for sulfosate in a total of 20 trials conducted in 3 different EPA regions and 15 different States representing 99% of the soybean production in the U.S. The proposed tolerance of 21 ppm (of which no more than 13 ppm is TMS) for soybean seed will accommodate any residue resulting from the proposed use pattern.

Soybean seed for processing were obtained and samples were processed into hulls, meal, crude oil, refined oil, and soapstock. Aspirated grain fractions were also collected. Analysis of the treated samples showed that residue of both TMS and PMG accumulated in hulls but did not accumulate in any other processed fractions. The proposed tolerance of 45 ppm (of which no more than 25 ppm is TMS) for soybean hulls and 1,300 ppm (of which no more than 720 ppm is TMS) for aspirated grain fractions will accommodate any residue resulting from the proposed use pattern.

ii. *Fruiting vegetables (except curcurbits) group*. Residue data are available for sulfosate in a total of 12 trials in tomatoes conducted in 5 EPA regions and 5 different states; a total of 6 trials in bell peppers conducted in 5 EPA regions and 6 different States; and a total of 3 trials in chili peppers conducted in 3 EPA regions and 3 different States. The residue levels were below the limit of quantitation (LOQ) of 0.05 ppm in all samples. The proposed tolerance of 0.05 ppm will accommodate any residue resulting from the proposed use pattern.

Tomato fruits for processing were obtained and samples were processed into puree and paste. After adjusting the results for the exaggerated rate, no concentration occurred in the puree and paste. No tolerances are required for puree and paste at the proposed use rates.

iii. *Edible podded legume vegetables subgroup*. Residue data are available for sulfosate in a total of 9 trials conducted in 5 different EPA regions and 8 different States representing 94% of the edible podded beans and peas in the U.S. The proposed tolerance of 0.5 ppm (of which no more than 0.3 ppm is TMS) for the Edible podded legume vegetables subgroup will accommodate any residue resulting from the proposed use pattern.

iv. *Succulent shelled pea and bean subgroup*. Residue data are available for sulfosate in a total of 12 trials in 6 different EPA regions and 10 different States representing 97% of the green peas and lima beans in the United States. The proposed tolerance of 0.2 ppm (of which no more than 0.1 ppm is TMS) for the Succulent shelled pea and bean subgroup will accommodate any residue resulting from the proposed use pattern.

v. *Dried shelled pea and bean (except soybean) subgroup*. Residue data are available for sulfosate in a total of 14 trials conducted in 5 different EPA Regions and in 8 States representing 97% of dried pea and 96% of dried bean production in the United States. The proposed tolerance of 6 ppm (of which no more than 1.5 ppm is TMS) for the Dried shelled pea and bean (except soybean) subgroup will accommodate any residue resulting from the proposed use pattern.

vi. *Magnitude of residue in animals—Ruminants*. The maximum dietary burden in dairy cows results from a diet comprised of 20% aspirated grain fractions, 60% wheat forage, and 20% wheat hay for a total dietary burden of 409 ppm. The maximum dietary burden in beef cows results from a diet comprised of 20% aspirated grain fractions, 25% wheat forage, 25% wheat hay, 20% soybean hulls, and 10% soybean seed for a total dietary burden of 378 ppm. Comparison to a ruminant feeding study at a dosing level of 300 ppm indicates that the appropriate tolerance levels are 0.75 ppm in cattle, goat, hog, sheep, and horse liver; 3.5 ppm in cattle, goat, hog, sheep, and horse kidney; 2.5 ppm in cattle, goat, hog, sheep, and horse meat by-products, except kidney and liver; 0.6 ppm in cattle, goat, hog, sheep, and horse meat; 1.1 ppm in milk; and 0.2 ppm in cattle, goat, hog, sheep, and horse fat. All of these tolerances exceed existing tolerances in 40 CFR 180.489.

vii. *Poultry*. The maximum dietary burden in poultry results from a diet comprised of 40% soybean meal, 20% soybean hulls, 20% soybean seed, and 20% wheat milled by-products for a total dietary burden of 24 ppm. Comparison to a poultry feeding study at a dosing level of 50 ppm indicates that the appropriate tolerance levels are below established tolerances for poultry meat, fat, and eggs. The appropriate tolerance for poultry liver is 0.1 ppm and for poultry meat by-products is 0.25 ppm.

B. Toxicological Profile

1. *Acute toxicity*. Several acute toxicology studies have been conducted placing technical grade sulfosate in Toxicity Category III and IV.

2. *Genotoxicty*. Mutagenicity data includes two Ames tests with *Salmonella typhimurium*; a sex linked recessive lethal test with Drosophila melanoga; a forward mutation (mouse lymphoma) test; an *in vivo* bone marrow cytogenetics test in rats; a micronucleus assay in mice; an *in vitro* chromosomal aberration test in Chinese hamster ovary cells (CHO) (no aberrations were observed either with or without S9 activation and there were no increases in sister chromatid exchanges); and a morphological transformation test in mice (all negative). A chronic feeding/carcinogenicity study was conducted in male and female rats fed dose levels of 0, 100, 500 and 1,000 ppm (0, 4.2., 21.2 or 41.8 mg/kg/day in males and 0, 5.4, 27.0 or 55.7 mg/kg/day in females). No carcinogenic effects were observed under the conditions of the study. The systemic no-observable effect level (NOAEL) of 1,000 ppm (41.1/55.7 mg/kg/day for males and females, respectively) was based on decreased body weight gains (considered secondary to reduced food consumption) and increased incidences of chronic laryngeal and nasopharyngeal inflammation (males). A chronic feeding/carcinogenicity study was conducted in male and female mice fed dosage levels of 0, 100, 1,000 and 8,000 ppm (0, 11.7, 118 or 991 mg/kg/day in males and 0, 16, 159 or 1,341 mg/kg/day in females). No carcinogenic effects were observed under the conditions of the study at dose levels up to and including the 8,000 ppm highest dose tested (HDT) which may have been excessive. The systemic NOAEL was 1,000 ppm based on decreases in body weight and feed consumption (both sexes) and increased incidences of duodenal epithelial hyperplasia (females only). Sulfosate is classified as a Group E carcinogen based on no evidence of carcinogenicity in rat and mouse studies.

3. *Reproductive and developmental toxicity*. A developmental toxicity study in rats was conducted at doses of 0, 30, 100 and 333 mg/kg/day. The maternal (systemic) NOAEL was 100 mg/kg/day, based on decreased body weight gain and food consumption, and clinical signs (salivation, chromorhinorrhea, and lethargy) seen at 333 mg/kg/day. The reproductive NOAEL was 100 mg/kg/day, based on decreased mean pup weight. The decreased pup weight is a direct result of the maternal toxicity. A developmental toxicity study was conducted in rabbits at doses of 0, 10, 40 and 100 mg/kg/day with developmental and maternal toxicity NOAELs of 40 mg/kg/day based on the following: (1) Maternal effects: 6 of 17 dams died (2 of the 4 non-gravid dams); 4 of 11 dams aborted; clinical signs - higher incidence and earlier onset of diarrhea, anorexia, decreased body weight gain and food consumption; and, (2) Fetal effects: decreased litter sizes due to increased post-implantation loss, seen at 100 mg/kg/day (HDT). The fetal effects were clearly a result of significant maternal toxicity. A 2-generation reproduction study in rats fed dosage rates of 0, 150, 800 and 2,000 ppm (equivalent to calculated doses of 0, 7.5, 40, and 100 mg/kg/day for males and females, based on a conversion factor of 1 mg/kg-day = 20 ppm). The maternal (systemic) NOAEL was 150 ppm (7.5 mg/kg/day), based on decreases in body weight and body weight gains accompanied by decreased food consumption, and reduced absolute and sometimes relative organ (thymus, heart, kidney and liver) weights seen at 800 and 2,000 ppm (40 and 100 mg/kg/day). The reproductive NOAEL was 150 ppm (7.5 mg/kg/day), based on decreased mean pup weights during lactation (after day 7) in the second litters at 800 ppm (40 mg/kg/day) and in all litters at 2,000 ppm (100 mg/kg/day), and decreased litter size in the F0a and F1b litters at 2,000 ppm (100 mg/kg/day). The statistically significant decreases in pup weights at the 800 ppm level were borderline biologically significant because at no time were either the body weights or body weight gains less than 90% of the control values and because the effect was not apparent in all litters. Both the slight reductions in litter size at 2,000 ppm and the reductions in pup weights at 800 and 2,000 ppm appear to be secondary to the health of the dams. There was no evidence of altered intrauterine development, increased stillborns, or pup anomalies. The effects are a result of feed palatability leading to reduced food consumption and decreases in body weight gains in the dams.

4. *Subchronic toxicity*. Two subchronic 90-day feeding studies with dogs and a 1-year feeding study in dogs have been conducted. In the 1-year study dogs were fed 0, 2, 10 or 50 mg/kg/day. The NOAEL was determined to be 10 mg/kg/day based on decreases in lactate dehydrogenase (LDH) at 50 mg/kg/day. In the first 90-day study, dogs were fed dosage levels of 0, 2, 10 and 50 mg/kg/day. The NOAEL in this study was 10 mg/kg/day based on transient salivation, and increased frequency and earlier onset of emesis in both sexes at 50 mg/kg/day. A second 90-day feeding study with dogs dosed at 0, 10, 25 and 50 mg/kg/day was conducted to refine the threshold of effects. There was evidence of toxicity at the top dose of 50 mg/kg/day with a NOAEL of 25 mg/kg/day. Adverse effects from oral exposure to sulfosate occur at or above 50 mg/kg/day. These effects consist primarily of transient salivation, which is regarded as a pharmacological rather than toxicological effect, emesis and

non-biologically significant hematological changes. Exposures at or below 25 mg/kg/day have not resulted in significant biological adverse effects. In addition, a comparison of data from the 90-day and 1-year studies indicates that there is no evidence for increased toxicity with time. The overall NOAEL in the dog is 25 mg/kg/day.

5. *Chronic toxicity*. A chronic feeding/carcinogenicity study was conducted in male and female rats fed dose levels of 0, 100, 500 and 1,000 ppm (0, 4.2, 21.2 or 41.8 mg/kg/day in males and 0, 5.4, 27.0 or 55.7 mg/kg day in females). No carcinogenic effects were observed under the conditions of the study. The systemic NOAEL of 1,000 ppm (41.1/55.7 mg/kg/day for males and females, respectively) was based on decreased body weight gains (considered secondary to reduced food consumption) and increased incidences of chronic laryngeal and nasopharyngeal inflammation (males). A chronic feeding/carcinogenicity study was conducted in male and female mice fed dosage levels of 0, 100, 1,000 and 8,000 ppm (0, 11.7, 118 or 991 mg/kg/day in males and 0, 16, 159 or 1,341 mg/kg/day in females). No carcinogenic effects were observed under the conditions of the study at dose levels up to and including the 8,000 ppm HDT (highest dose may have been excessive). The systemic NOAEL was 1,000 ppm based on decreases in body weight and feed consumption (both sexes) and increased incidences of duodenal epithelial hyperplasia (females only). Sulfosate is classified as a Group E carcinogen based on no evidence of carcinogenicity in rat and mouse studies.

6. *Animal metabolism*. The metabolism of sulfosate has been studied in animals. The residues of concern for sulfosate in meat, milk, and eggs are the parent ions PMG and TMS only.

7. *Metabolite toxicology*. There are no metabolites of toxicological concern. Only the parent ions, PMG and TMS are of toxicological concern.

8. *Endocrine disruption*. Current data suggest that sulfosate is not an endocrine disruptor.

C. Aggregate Exposure

1. *Dietary exposure*.—i. *Food*. For the purposes of assessing the potential dietary exposure, Zeneca has utilized the tolerance level for all existing and pending tolerances; and the proposed maximum permissible levels of 0.05 ppm for the fruiting vegetables (except cucurbits) group; 0.5 ppm for the edible-podded legume vegetables subgroup; 0.2 ppm for the succulent shelled pea and bean subgroup; 6 ppm for the dried shelled pea and bean (except soybean) subgroup; 3.5 ppm for cattle, goat, hog, sheep, and horse kidney; 2.5 ppm for cattle, goat, hog, sheep, and horse meat by-products, except liver and kidney; 0.6 ppm for cattle, goat, hog, sheep, and horse meat; 0.75 ppm for cattle, goat, hog, sheep, and horse liver; 1.1 ppm for milk; 0.1 ppm for poultry liver; 0.25 ppm for poultry meat by-products; 21 ppm for soybean seed; 45 ppm for soybean hulls; 1300 ppm for aspirated grain fractions; and 100% crop treated acreage for all commodities. Assuming that 100% of foods, meat, eggs, and milk products will contain sulfosate residues and those residues will be at the level of the tolerance results in an overestimate of human exposure. This is a very conservative approach to exposure assessment.

ii. *Chronic exposure*. For all existing tolerances and pending tolerances; and the proposed maximum permissible levels proposed in this notice of filing, the potential exposure for the U.S. population is 0.018 mg/kg bwt/day (7.4% of RfD). Potential exposure for children's population subgroups range from 0.015 mg/kg bwt/day (6.1% of RfD) for nursing infants (<1 year old) to 0.076 mg/kg bwt/day (30.5%) for non-nursing infants. The chronic dietary risk due to food does not exceed the level of concern (100%) Acute exposure. The exposure to the most sensitive population subgroup, in this instance non-nursing infants, was 23.2% of the acute RfD. The acute dietary risk due to food does not exceed the level of concern (100%).

iii. *Drinking water*. Results from computer modeling indicate that sulfosate in groundwater will not contribute significant residues in drinking water as a result of sulfosate use at the recommended maximum annual application rate (4.00 lbs. a.i. acre -1). The computer model uses conservative numbers, therefore it is unlikely that groundwater concentrations would exceed the estimated concentration of 0.00224 parts per billion (ppb), and sulfosate should not pose a threat to ground water.

The surface water estimates are based on an exposure modeling procedure called Generic Expected Environmental Concentration (GENEEC). The assumptions of 1 application of 4.00 lbs. a.i. acre -1 resulted in calculated estimated maximum concentrations of 64 ppb (acute, based on the highest 56-day value) and 43 ppb (chronic, average). GENEEC modeling procedures assumed that sulfosate was applied to a 10-hectare field that drained into a 1-hectare pond, 2-meters deep with no outlet.

As a conservative assumption, because sulfosate residues in ground water are expected to be insignificant compared to surface water, it has been assumed that 100% of drinking water consumed was derived from surface water in all drinking water exposure and risk calculations.

To calculate the maximum acceptable acute and chronic exposures to sulfosate in drinking water, the dietary food exposure (acute or chronic) was subtracted from the appropriate (acute or chronic) RfD. Drinking water levels of concern (DWLOCs) were then calculated using the maximum acceptable acute or chronic exposure, default body weights (70 kg - adult, 10 kg - child), and drinking water consumption figures (2 liters - adult, 1 liter - child).

The maximum concentration of sulfosate in surface water is 64 ppb. The acute DWLOCs for sulfosate in surface water were all greater than 7,700 ppb. The estimated average concentration of sulfosate in surface water is 43 ppb which is much less than the calculated levels of concern (> 1,700 ppb) in drinking water as a contribution to chronic aggregate exposure. Therefore, for current and proposed uses of sulfosate, Zeneca concludes with reasonable certainty that residues of sulfosate in drinking water would not result in unacceptable levels of aggregate human health risk.

2. *Non-dietary exposure*. Sulfosate is currently not registered for use on any residential non-food sites. Therefore, residential exposure to sulfosate residues will be through dietary exposure only.

D. Cumulative Effects

There is no information to indicate that toxic effects produced by sulfosate are cumulative with those of any other chemical compound.

E. Safety Determination

1. *U.S. population*—i. *Acute risk*. Since there are no residential uses for sulfosate, the acute aggregate exposure only includes food and water. Using the conservative assumptions of 100% of all crops treated and assuming all residues are at the tolerance level for all established and proposed tolerances, the aggregate exposure to sulfosate will utilize 17.3% of the acute RfD for the U.S. population. The estimated peak concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to acute aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate acute human health risk considering the

present uses and uses proposed in this action.

ii. *Chronic risk*. Using the conservative exposure assumptions described above, the aggregate exposure to sulfosate from food will utilize 7.4% of the chronic RfD for the U.S. population. The estimated average concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to chronic aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate chronic human health risk considering the present uses and uses proposed in this action.

2. *Infants and children*. The database on sulfosate relative to pre- and post-natal toxicity is complete. Because the developmental and reproductive effects occurred in the presence of parental (systemic) toxicity, these data do not suggest an increased pre- or post-natal sensitivity of children and infants to sulfosate exposure. Therefore, Zeneca concludes, upon the basis of reliable data, that a 100-fold uncertainty factor is adequate to protect the safety of infants and children and an additional safety factor is unwarranted.

i. *Acute risk*. Using the conservative exposure assumptions described above, the aggregate exposure to sulfosate from food will utilize 23.2% of the acute RfD for the most highly exposed group, non-nursing infants. The estimated peak concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to acute aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate acute human health risk considering the present uses and uses proposed in this action.

ii. *Chronic risk*. Using the conservative exposure assumptions described above, we conclude that the percent of the RfD that will be utilized by aggregate exposure to residues of sulfosate is 30.5% for non-nursing infants, the most highly exposed group. The estimated average concentrations of sulfosate in surface and ground water are less than DWLOCs for sulfosate in drinking water as a contribution to chronic aggregate exposure. Residues of sulfosate in drinking water do not contribute significantly to the aggregate chronic human health risk considering the present uses and uses proposed in this action.

F. International Tolerances

There are no Codex Maximum Residue Levels established for sulfosate.

[FR Doc. 99–8775 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6321–3]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act (''CERCLA''), notice is hereby given that a proposed administrative cost recovery settlement concerning the Caelus Devices Removal Site in Hollister, California was executed by the Agency on March 19, 1999. The proposed settlement resolves an EPA claim under section 107 of CERCLA against the following Respondents: the United States Navy, Helen Sperber, and Victor Edmundson. The proposed settlement was entered into under the authority granted EPA in section 122(h) of CERCLA, and requires the Respondents to pay $124,195.84 to the Hazardous Substances Superfund in settlement of past costs. For thirty (30) days following the date of publication of this document, the Agency will receive written comments relating to the settlement. The Agency's response to any comments received will be available for public inspection at three locations: the Hollister Public Library; the Environmental Protection Agency, Region 9, Library & Resource Center, 75 Hawthorne Street, San Francisco, California, 94105; and the Environmental Protection Agency, Region 9, Ms. Danielle Carr, Regional Hearing Clerk, 75 Hawthorne Street, San Francisco, California, 94105.

DATES: Comments must be submitted on or before May 10, 1999.

ADDRESSES: The proposed settlement as set forth in the Administrative Consent Order may be obtained from Ms. Danielle Carr, Regional Hearing Clerk, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California, 94105.

Comments regarding the proposed settlement should be addressed to Ms. Danielle Carr, Regional Hearing Clerk, Environmental Protection Agency, Region 9 at the address provided above, and should reference the Caelus Devices Removal Site located in Hollister, California (EPA Docket No. 99–05).

FOR FURTHER INFORMATION CONTACT: Julia A. Jackson, Assistant Regional Counsel, Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1348.

Dated: March 30, 1999.

Keith Takata,

Director, Superfund Division.

[FR Doc. 99–8778 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6321–5]

Memphis Container Site; Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Settlement.

SUMMARY: Pursuant to section 122(h) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the United States Environmental Protection Agency (EPA) proposes to enter into an Agreement for the recovery of past response costs with Buckman Laboratories, Inc., Perma-Fix of Memphis, Inc., Croda Inks Corporation, IBC Manufacturing Company and Memphis Light, Gas & Water Division, (Settling Parties). Pursuant to the Agreement, the Settling Parties will reimburse EPA for a portion of response costs at the Memphis Container Superfund Site (the ''Site'') located in Memphis, Shelby County, Tennessee. EPA will consider public comments on the proposed settlement for thirty days. EPA may withdraw from or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Program Services Branch, Waste Management Division, 61 Forsyth Street, S.W., Atlanta, Georgia 30303.

Written comments may be submitted to Ms. Batchelor at the above address

within 30 days of the date of publication.

Dated: March 24, 1999.

Franklin E. Hill,

Chief, Program Services Branch, Waste Management Division.

[FR Doc. 99–8776 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6321–4]

Ware Shoals Dyeing and Printing Superfund Site Notice of Proposed Settlement

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for public comment.

SUMMARY: In accordance with section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement for recovery of past response costs concerning the Ware Shoals Dyeing and Printing Site in Ware Shoals, South Carolina with the following settling party: Mount Vernon Mills, Inc. The settlement requires the settling party to pay $310,000.00 to the Hazardous Substance Superfund. The settlement includes a covenant not to sue the settling party pursuant to section 107(a) of CERCLA, 42 U.S.C. 9607(a). The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Attn: Paula V. Batchelor, Waste Management Division, U.S. EPA, Region 4, 61 Forsythe Street S.W., Atlanta, Georgia 30303, (404) 562–8887.

Written comments may be submitted to Ms. Batchelor within 30 calendar days of the date of publication.

Dated: March 24, 1999.

Franklin Hill,

Chief, Waste Programs Branch, Waste Management Division.

[FR Doc. 99–8777 Filed 4–7–99; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[DA 99–642]

Public Safety National Coordination Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Public Safety and Private Wireless Division released this Public Notice advising of the establishment of procedures for oral or written contacts with the Chairperson of the Public Safety National Coordination Committee (''NCC''). The Notice requires that any person or entity that makes an oral or written presentation to the Chairperson of the NCC must provide a document which summarizes that presentation. This is to assure full public participation in the discussion of all matters of substance before the NCC.

DATES: Effective immediately.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room 4–C207, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: D'wana R. Terry, telephone (202)418–0680. Press Contact, Meribeth McCarrick, Wireless Telecommunications Bureau, 202–418–0600, or e-mail, mmccarri@fcc.gov.

SUPPLEMENTARY INFORMATION: Following is the complete text of the Public Notice: The FCC has established the Public Safety National Coordination Committee, pursuant to the provisions of the Federal Advisory Committee Act, to advise the Commission on a variety of issues relating to the use of the 24 MHz of spectrum in the 764–776/794–806 MHz frequency bands (collectively, the 700 MHz band) that has been allocated to public safety services. *See* The Development of Operational, Technical and Spectrum Requirements For Meeting Federal, State and Local Public Safety Agency Communications Requirements Through the Year 2010 and Establishment of Rules and Requirements For Priority Access Service, WT Docket No. 96–86, *First Report and Order and Third Notice of Proposed Rulemaking,* FCC 98–191 (1998). The Federal Advisory Committee Act, Public Law 92–463, as amended, requires public notice of all meetings of the NCC. This is to assure full public participation in the discussion of all matters of substance before the NCC.

We wish to assure that all contacts regarding the merits or substance of any NCC consideration which occur outside the scope of formal meetings are a matter of record. Therefore, the NCC will require that any person or entity that makes an oral or written presentation to the Chairperson of the NCC (Kathleen Wallman) must provide a document which summarizes that presentation. In the case of an oral communication, the document must be a memorandum reflecting who initiated the contact and the substance of the conversation. In the case of a written contact, the document must be a copy of the letter or pleading constituting the written contact. All such documents must be labelled WTB–2.

Date: This requirement is effective immediately.

Address: Documents provided to the NCC for the public file should be sent to: D'wana R. Terry, Designated Federal Officer, Public Safety National Coordination Committee, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 4–C207, Washington, D.C. 20554.

Supplementary Information: All submissions concerning such contacts will be available for public inspection during normal business hours in a file designated WTB–2 maintained in the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, Federal Communications Commission in Room 4–C207, 445 Twelfth Street, S.W., Washington, D.C. 20554.

Federal Communications Commission.

Herbert W. Zeiler,

Deputy Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau.

[FR Doc. 99–8792 Filed 4–7–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information

collection titled ''Summary of Deposits.''

DATES: Comments must be submitted on or before June 7, 1999.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Summary of Deposits.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. [FAX number (202) 898–3838; Internet address: comments@fdic.gov].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal To Renew the Following Currently Approved Collection of Information

Title: Summary of Deposits.

OMB Number: 3064–0061.

Frequency of Response: Annually.

Affected Public: All financial institutions.

Estimated Number of Respondents: 6,400.

Estimated Time per Response: 3 hours.

Estimated Total Annual Burden: 19,200 hours.

General Description of Collection: The Summary of Deposits annual survey obtains data regarding the amount of deposits held at all offices of all banks in the United States. The survey data provides a basis for measuring the competitive impact of bank mergers and has additional use in banking research.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

Dated at Washington, D.C., this 30th day of March, 1999.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–8782 Filed 4–7–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Notices

DATE AND TIME: Tuesday, April 13, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This Meeting Will Be Closed to the Public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, April 15, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–4: Republican Party of Minnesota and the Senate District 43 Committee by counsel, Tony P. Trimble.

Advisory Opinion 1999–5: Democratic Party of New Mexico by counsel, Joseph E. Sandler and Neil P. Reiff.

Advisory Opinion 1999–8: Citizens for Arlen Specter by its treasurer, Stephen J. Harmelin.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Deputy Secretary of the Commission.

[FR Doc. 99–8846 Filed 4–6–99; 12:37 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

[Petition No. P3–99]

Petition of China Ocean Shipping (Group) Company for a Partial Exemption From the Controlled Carrier Act; Notice of Filing of Petition

Notice is hereby given that China Ocean Shipping (Group) company (''Petitioner'') has petitioned for an exemption pursuant to Section 16 of the Shipping Act of 1984, 46 U.S.C. app. § 1715. Petitioner requests an exemption to allow it to publish rate decreases in U.S. foreign commerce [1] to be effective upon publication, without regard to whether they are the same as or lower than competing carriers' rates. (Petitioner currently has this right in the cross trades, it the rate decreases are not below rates of competing carriers. See the Commission's Order in Petition No. P1–98-*Petition of China Ocean Shipping (Group) Company for a Limited Exemption from Section 9(C) of the Shipping Act of 1984*, served March 27, 1998).

In other for the Commission to make a thorough evaluation of the petition for exemption, interested persons are requested to submit views or arguments in reply to the petition no later than May 7, 1999. Replies shall consist of an original and 15 copies, be directed to the Secretary, Federal Maritime Commission, Washington, D.C. 20573–0001, and be served on Petitioner's counsel: Richard D. Gluck, Esq., Garvey, Schubert & Barer, 1000 Potomac Street, N.W., Washington, D.C. 20007.

Copies of the petition are available for examination at the Office of the Secretary of the Commission, 800 N. Capitol Street, N.W., Room 1046, Washington, D.C.

Bryant L. VanBrakle,

Secretary.

[FR Doc. 99–8677 Filed 4–7–99; 8:45 am]

BILLING CODE 6730–01–M

[1] The petition requests relief in both the bilateral trade and the cross trades. The bilateral trade is the trade between the United States and the People's Republic of China. The cross trades include the trades between the United States and foreign countries other than the People's Republic of China.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 22, 1999.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Cathy Grissom Bolding, Nancy Grissom Wilson, both of Oklahoma City, Oklahoma, and Robert Randal Grissom, Ardmore, Oklahoma; to acquire voting shares of Lincoln Financial Corporation, Ardmore, Oklahoma, and thereby indirectly acquire voting shares of Lincoln Bank & Trust Company, Ardmore, Oklahoma.

2. Michael Dean Stevens and Kimberly S. Stevens, both of Sublette, Kansas; to acquire voting shares of Santa Fe Trail Banc, Shares, Inc., Sublette, Kansas, and thereby indirectly acquire voting shares of Centra Bank, Sublette, Kansas.

3. Rodger L. Van Loenen, Prairie View, Kansas; to acquire voting shares of Phillips Holdings, Inc., Phillipsburg, Kansas, and thereby indirectly acquire voting shares of Farmers State Bank, Phillipsburg, Kansas.

Board of Governors of the Federal Reserve System, April 2, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–8653 Filed 4–7–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 3, 1999.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. Sterling Financial Corporation, Lancaster, Pennsylvania; to acquire 100 percent of the voting shares of Northeast Bancorp, Inc., North East, Maryland, and thereby indirectly acquire The First National Bank of North East, North East, Maryland.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Decatur Corporation, Leon, Iowa; to merge with Spectrum Bancorporation, Inc., Omaha, Nebraska, and thereby acquire Rushmore Financial Services, Inc., Omaha, Nebraska, Rushmore Bank & Trust Company, Rapid City, South Dakota, and F&M Bank, Watertown, South Dakota.

C. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Central Financial Corporation, Hutchinson, Kansas; to acquire 10 percent of the voting shares of Mid-America Bancorp, Inc., Jewell, Kansas, and thereby indirectly acquire Heartland Bank, N.A., Jewell, Kansas.

D. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Sterling Bancshares, Inc., Houston, Texas, and Sterling Bancorporation, Inc., Wilmington, Delaware; to merge with B.O.A. Bancshares, Inc., Houston, Texas, and thereby indirectly acquire Houston Commerce Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, April 2, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–8655 Filed 4–7–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 3, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Passumpsic Bancorp, St. Johnsbury, Vermont; to engage *de novo* through its subsidiary, Passumpsic Bank, FSB, Littleton, New Hampshire, in operating a savings association, pursuant to § 225.28(b)(4)(ii).

Board of Governors of the Federal Reserve System, April 2, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–8654 Filed 4–7–99; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC): Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following meeting.

Name: Healthcare Infection Control Practices Advisory Committee (formerly Hospital Infection Control Practices Advisory Committee).

Times and Dates:

8:30 a.m.-5 p.m., May 24, 1999.

8:30 a.m.-1 p.m., May 25, 1999.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, the Director, CDC, and the Director, National Center for Infectious Diseases (NCID), regarding (1) the practice of hospital infection control; (2) strategies for surveillance, prevention, and control of infections (e.g., nosocomial infections), antimicrobial resistance, and related events in settings where healthcare is provided; and (3) perioidc updating guidelines and other policy statements regarding prevention of healthcare associated infections and healthcare-related conditions.

Matters to be Discussed: Agenda items will include an overview of the strategic direction of HICPAC; plan(s) for collaboration between HICPAC and professional organizations in developing guideline; plan(s)for evaluation of the Guideline for Prevention of Site Infection; review of the second draft of the Guideline for Environmental Controls in Healthcare Settings; and a review of CDC activities of interest to the Committee.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Michele L. Pearson, M.D., Medical Epidemiologist, Investigation and Prevention Branch, Hospital Infections Program, NCID, CDC, 1600 Clifton Road, NE, M/S E–69, Atlanta, Georgia 30333, telephone 404/639–6413.

The Director, Management Analysis and Services Office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 2, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–8727 Filed 4–7–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates:

9:00 a.m.-5:30 p.m., May 6, 1999.

8:30 a.m.-2:30 p.m., May 7, 1999.

Place: CDC, Auditorium B, 1600 Clifton Road, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: Agenda items will include:

1. NCID Update—Dr. Hughes
2. Minority Health Program—Dr. Black
3. Bioterrorism Preparedness—Drs. Ostroff, Lillibridge, and Morse
4. Arctic Investigations Program—Dr. Butler
5. Discussion of Programs
6. Antimicrobial Resistance Dr. Bell
7. Economic Impact of pandemic Influenza—Dr. Meltzer
8. Scientific Updates
   a. Hepatitis C
   b. Malaysia Outbreak
9. Discussions and Recommendations

Other agenda items include announcements/introductions; follow-up on actions recommended by the Board December 1998; consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, 1600 Clifton Road, M/S C–20, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

The Director, Management Analysis and Services office has been delegated the authority to sign Federal Register notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: April 2, 1999.

Carolyn J. Russell,

Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–8729 Filed 4–7–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Drug Repackager Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of workshop.

The Food and Drug Administration, in cooperation with the North Central Association of Food and Drug Officials (NCAFDO), a local nonprofit organization, is announcing the following workshop: Drug Repackager Workshop. The topic to be discussed is current good manufacturing practices for the drug repackaging industry, including (but not limited to) stability testing and expiration dating for both solid and liquid oral dosage forms; packaging and labeling control; and separation of penicillin/cephalosporin operations from other drug products.

Date and Time: The workshop will be held on Tuesday, May 18, 1999, from 8:30 a.m. to 4 p.m. Send information regarding registration by May 10, 1999.

Location: The workshop will be held at Hamburger University at The Lodge on the McDonald's Office Campus, 2815 Jorie Blvd., Oak Brook, IL 60523.

Contact: Lorelei S. Jarrell, Preapproval Manager, Food and Drug Administration, 300 South Riverside Plaza, Chicago, IL 60606, 312–353–5863, ext. 146, FAX 312–886–3280, e-mail ''ljarrell@fda.ora.gov''.

Registration: Send registration information (including name, title, firm name, address, telephone, and fax number), along with a $75 registration fee (which will cover the actual cost of the facilities, continental breakfast, lunch, refreshments, and miscellaneous items) to Pat Lewis, Food and Drug Administration, 300 South Riverside Plaza, suite 550 South, Chicago, IL 60606, 312–353–5863, ext. 190, by May

10, 1999. Checks should be made payable to NCAFDO. There is limited seating, so registration will be honored on a first-come-first-served basis.

For hotel reservations, please contact The Lodge at McDonald's Office Campus, 2815 Jorie Blvd., Oak Brook, IL 60523. To obtain the preferred room rate of $159 per single room, please call the hotel at 630–990–5800, and state that you will be attending the Drug Repackager Workshop.

If you need special accommodations due to a disability, please contact Lorelei S. Jarrell at least 7 days in advance.

Dated: April 1, 1999.

William K. Hubbard,

Acting Deputy Commissioner for Policy.

[FR Doc. 99–8658 Filed 4–7–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1071–N]

Medicare Program; April 23, 1999 Open Town Hall Meeting to Discuss the Skilled Nursing Facility Prospective Payment System (SNF/PPS) and Quality of Care in Nursing Facilities

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a Town Hall meeting to provide an opportunity for nursing homes, beneficiary advocates, and other interested parties to ask questions and raise issues regarding the prospective payment system for skilled nursing facilities and the quality of care in nursing facilities. The meeting represents one aspect of the evolving process for making our payment, coverage, and quality reviews more open and responsive to the public. The meeting will address the following topics:

- An update and future refinements to the skilled nursing facility/ prospective payment system including a discussion of nontherapy ancillary services and consolidated billing.
- Outpatient therapy caps and other Part B issues.
- Skilled nursing facility coverage and medical review.
- Nursing home enforcement and quality issues.

DATES: The meeting is scheduled for April 23, 1999 from 8:00 a.m. until 5:00 p.m., E.D.T.

ADDRESSES: The meeting will be held in the HCFA headquarters auditorium, 7500 Security Boulevard, Baltimore, Maryland, 21244.

FOR FURTHER INFORMATION CONTACT: Jackie Gordon, (410) 786–4517, or Martha Kuespert, (410) 786–4605.

SUPPLEMENTARY INFORMATION:

Background

We are announcing a Town Hall meeting to provide an opportunity for nursing homes, beneficiary advocates, and other interested parties to ask questions and raise issues regarding the skilled nursing facility (SNF) prospective payment system (PPS) and the quality of care in nursing homes. On May 12, 1998, we published an interim final rule with comment period to implement SNF PPS (63 FR 26252). Initially, we provided a 60-day period for public comment. In response to requests from the industry, we extended the comment period twice (see 63 FR 37498 (July 13, 1998) and 63 FR 65561 (November 27, 1998)). The comment period for the SNF PPS interim final rule ended on December 28, 1998. We are currently developing the final rule and we expect to publish it soon. In developing the final rule, we are considering all public comments properly submitted during the public comment period. We will not accept any further comments on the interim final rule at this Town Hall meeting; that is, this meeting does not mean we are extending the public comment period.

In addition to the implementation of SNF PPS, we have embarked on an ambitious program to improve the quality of care in all nursing facilities. These two major initiatives have had wide-ranging effects on nursing facilities. The public has raised questions about how we propose to implement various aspects of these initiatives; how they interrelate; and how, and to what extent, we currently anticipate acting on current research and experience as a means of initiating future improvements in our quality assurance and payment systems.

This Town Hall meeting provides a forum for addressing these issues. We anticipate participation by nursing homes, nursing home organizations, hospital organizations, professional medical and allied health organizations, therapy and other nursing home supplier organization groups, national nursing home advocacy organizations, the press, and other members of the public with an interest in future SNF PPS and quality of care nursing home issues.

We intend that the meeting will provide a forum for the aforementioned groups to ask questions and raise issues about SNF PPS and quality of care in nursing homes. We intend to discuss our research efforts and the general direction that we are moving toward concerning these topics.

The format of the meeting will include an overview of the SNF PPS and quality of care topics. There will be a panel for each of the following topics:

- An update and future refinements to the skilled nursing facility/ prospective payment system including a discussion of nontherapy ancillary services and consolidated billing.
- Outpatient therapy caps and other Part B issues.
- Skilled nursing facility coverage and medical review.
- Nursing home enforcement and quality issues.

We will allow short (10–20 minutes) presentations by the public and our staff on these topics. The meeting will conclude with a question-and-answer session during which the public may raise issues related to the topics discussed.

Individuals who wish to make a presentation or be panelists at the meeting must contact Jackie Gordon at (410) 786–4517 or via e-mail at JGordon2@hcfa.gov or Martha Kuespert at (410) 786–4605 or via e-mail MKuespert@hcfa.gov no later than April 16, 1999. It is important that parties wishing to participate at the meeting include the topic for the panel on which they wish to participate. Also, because of time constraints, only a limited number of parties will be able to make presentations. We will notify participants who have been selected to make a presentation. We will not assign presentation times until the end of the public notice period established by this notice.

While the meeting is open to the public, attendance is limited to space available. Individuals must register in advance as described below.

Registration

The Office of Professional Relations will handle registration for the meeting. Individuals may register by sending a fax to the attention of Bernice Harper, Ph.D., at the Office of Professional Relations. At the time of registration, please provide your name, address, telephone number, and fax number.

Receipt of your fax will constitute confirmation of your registration. You will be provided with meeting materials at the time of the meeting.

For fax registration, the number is 202–401–7438.

If you have questions regarding registration please contact either

Bernice Harper, Ph.D., at 202–690–7899 or I. David Wolfson, J.D., R.Ph., at 410–786–4585.

We will accept written questions or other materials, either before the meeting, or up to 14 days after the meeting. Written submissions should be sent to: Health Care Financing Administration, ATTN: Jackie Gordon, Room C5–06–25, 7500 Security Boulevard, Baltimore, Maryland 21244–1850. You may contact Ms. Gordon at: Telephone Number: (410) 786–4517, Fax Number (410) 786–0765, E-mail: JGordon2@hcfa.gov.

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: April 5, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–8849 Filed 4–7–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: March 1999

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions

During the month of March 1999, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALVERA, CHRISTINE ..... MIAMI, FL	04/20/1999
AWE, OLUWAFEMI AYORNDE MIAMI, FL	04/20/1999
BENDER, CYNTHIA ..... ORANGE, CA	04/20/1999
BURK, KATHLEEN ANN ..... GORDONVILLE, TX	04/20/1999
CASTILLO, REYNALDO ..... LOS ANGELES, CA	04/20/1999
DAVIS, LAWERENCE VANCE JR ..... BEAUMONT, TX	04/20/1999
F & J CAM, INC ..... E MARLBORO, NJ	04/20/1999
FRIESEN, CAROL D ..... F. WORTH, TX	04/20/1999
FUSILLO, ANA MARIE ..... SAN JOSE, CA	04/20/1999
HIEKE, HARRY A JR ..... NEWPORT NEWS, VA	04/20/1999
HOFFMAN, FRANK ..... WARWICK, RI	04/20/1999
HOLMES, PHILIP J ..... HILLSBORO, OH	04/20/1999
HOUSER, JAMES J ..... FRANKLIN, PA	04/20/1999
JACKSON, KAREN RAMSEY .. N RICHLAND HILLS, TX	04/20/1999
JORGE, DAISY SANTANA ..... COLEMAN, FL	04/20/1999
KNOLL, MARJORIE A ..... LEWISTON, ME	04/20/1999
LALANI, TALAT ..... YUMA, AZ	04/20/1999
LEE, WON KOO ..... MONTEREY PARK, CA	04/20/1999
MALIK, ANIL ..... SUNLAND, CA	04/20/1999
MENENDEZ, CARIDAD ..... N BAY VILLAGE, FL	04/20/1999
MIDDLETON, JACQUELYN ..... BATESBURG, SC	04/20/1999
NEGRON, EDWIN ..... VALRICO, FL	04/20/1999
OKONGWU, BENNETH OBIOINMA ..... MISSOURI CITY, TX	04/20/1999
OYHENART, DANIEL ..... MIAMI, FL	04/20/1999
RATINOV, MIKHAIL ..... BROOKLYN, NY	04/20/1999
RIVERA, EDGAR E ..... WARWICK, RI	04/20/1999
SANTANA, IRIS ..... COLEMAN, FL	04/20/1999
SCHEINER, DAVE E ..... PHILADELPHIA, PA	01/25/1999
SLANE, AMY D ..... COLUMBUS, OH	04/20/1999
SWAITHES, DAVID MANFORD BOONEVILLE, AR	04/20/1999
SYAL, PARVIN ..... NORTHRIDGE, CA	04/20/1999
TOUCHSTONE, ALLEN ..... LAUREL SPRINGS, NJ	04/20/1999
WRIGHT, SHARON THOMAS FT LAUDERDALE, FL	04/20/1999
FELONY CONVICTION FOR HEALTH CARE FRAUD	
SICKLES, KATHLEEN M ..... LORTON, VA	04/20/1999
FELONY CONTROL SUBSTANCE CONVICTIONS	
HOCHADEL, KEITH J ..... ALLIANCE, OH	04/20/1999
OSBORNE, RONALD T ..... BEAVERCREEK, OH	04/20/1999
STREET, JUDY S ..... RICHLANDS, VA	04/20/1999
PATIENT ABUSE/NEGLECT CONVICTIONS	
ANDERSON, ROBERT JAMES TAYLORVILLE, UT	04/20/1999
BARNES, REATHEE (RITA) D JACKSON, MS	04/20/1999
BROWN, CASSANDRA MARIE KANSAS CITY, MO	04/20/1999
CHEATHAM, PHYLLIS ..... MACON, MS	04/20/1999
GILBERT, DENNIS ALAN ..... FT WORTH, TX	04/20/1999
GILMORE, ISIAH ..... BATON, ROUGE, LA	04/20/1999
GODFREY, DORETHA ..... DARLING, SC	04/20/1999
HOUGH, IMANUEL, JR ..... CHESTERFIELD, SC	04/20/1999
MULLEN, REBECCA ..... RIVERSIDE, RI	04/20/1999
MUNN, BARBARA ANN ..... BAKERSFIELD, CA	04/20/1999
SAMUELS, CONRAD ..... MERIDIAN, MS	04/20/1999
THOMAS, JULIANN ..... WEST VALLEY, UT	04/20/1999
WOODS, ALLEN A ..... W VALLEY CITY, UT	04/20/1999
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
ALI, MOHAMMED J. WILLOWBROOK, IL	04/20/1999
ANDERSON, MICHAEL R. QUICKSBURG, VA	04/20/1999
BAMBARGER, JOYCE ELIZA-BETH ..... FLOYD, VA	04/20/1999
BARTON, THERESSA L ..... KELLERTON, IA	04/20/1999
BECKER, MICHAEL F ..... MEDFORD, MA	04/20/1999
BELL, WILLIAM J ..... WINTER HAVEN, FL	04/20/1999
BILLINGS, CYNTHIA S ..... OSAGE, IA	04/20/1999
BILLUPS, GENEVA ..... CHICAGO, IL	04/20/1999
BLOCK, MICHAEL ..... NEW MILFORD, CT	04/20/1999
BOLL, MARY KATHERINE ..... MINNEAPOLIS, MN	04/20/1999
BROWN, BARRY D ..... TERRY, MS	04/20/1999
BROWN, REBECCA F	04/20/1999

Subject city, state	Effective date
SHAWSVILLE, VA	
CALHOUN, ELLEN HOWELL .. MECHANICSBURG, PA	04/20/1999
CARMICHAEL, DONALD S ..... ERIE, PA	04/20/1999
CARPENTER, CHARLOTTE ANN ..... STARKS, LA	04/20/1999
CARROLL, PEGGY ..... BEULAVILLE, NC	04/20/1999
CASTLE, RITA D ..... CHATHAM, VA	04/20/1999
CATT, KELLY ..... BRANDON, MS	04/20/1999
CHAIFFETZ, IRA N ..... LABANON, OH	04/20/1999
COLMAN, LAURENCE D ..... THORNHILL, ONTARIO, CA	04/20/1999
CONNELLY, THERESA ..... HAVERHILL, MA	04/20/1999
CONRAD, DOREEN G ..... POWHATAN, VA	04/20/1999
COOK, LARA K ..... ZANESVILLE, OH	04/20/1999
COOPER, GEORGE RUSSELL CONOVER, NC	04/20/1999
CURRO, JOHN J ..... DES MOINES, IA	04/20/1999
CURRY, SHEREE D ..... GLOUCESTER, VA	04/20/1999
DOLAN, RUTH D ..... BETHEL PARK, PA	04/20/1999
DUNIFER, CHARLES DELEON NELSONVILLE, OH	04/20/1999
DUNN, CHERYL FOWLER ..... WARRAN, PA	04/20/1999
DURAND, PIERRE O ..... BEDFORD, NH	04/20/1999
DWYER, LOIS JEAN ..... WATERVILLE, MN	04/20/1999
EASTON, ROBERT S JR ..... METAMORA, IL	04/20/1999
ELKINGTON, ROBIN LYNN ..... GENOA, WI	04/20/1999
FAIRHILL, MARK M ..... LOUISA, VA	04/20/1999
FELDER, THOMAS L ..... SPRINGFIELD, IL	04/20/1999
FIGUEROA-QUIGLEY, NANCY A ..... DELMAR, IA	04/20/1999
FLANIGAN, MELINDA ..... ANKENEY, IA	04/20/1999
FREDERICK, DONALD ..... ALEXANDRIA, NH	04/20/1999
FREY, CRAIG EDWARD ..... YORK, PA	04/20/1999
GARCIA, JOSEPHINE ..... JACKSON, MS	04/20/1999
GEARHART, DIANE RAE ..... PANORAMA, CA	04/20/1999
GLOVER, LEOLA GRACE ..... WELLSBORO, PA	04/20/1999
GRANT, BETTY ..... FARMVILLE, NC	04/20/1999
GREENE, MARY ELLEN ..... NIANTIC, CT	04/20/1999
HALE, MARY B ..... EDWARDSVILLE, IL	04/20/1999
HIRSCH, BERNARD H ..... BAKERSFIELD, CA	04/20/1999
HOSELY, MAJORIE EVELYN .. GULFPORT, MS	04/20/1999
HOSSEINIPOUR, AHMAD	04/20/1999
YOUNGSTOWN, OH	
HUFFINE, JENNIFER A ..... MARION, OH	04/20/1999
HUTCHINSON, TINA M ..... RICHMOND, VA	04/20/1999
JENSEN, DAVID ALLEN ..... BELLFLOWER, CA	04/20/1999
JOHNSON, KAYLIN DOUGLAS HUNTINGTON BCH, CA	04/20/1999
KALAN, BARBARA A ..... SALEM, MA	04/20/1999
KALLAY, HASHMIA S ..... PETERSBURG, VA	04/20/1999
KELCH, BENJAMIN P ..... COLUMBUS, OH	04/20/1999
KITCHEN, ALFRED G E ..... SANDUSKY, OH	04/20/1999
KNIGHT, CINDY A ..... DES MOINES, IA	04/20/1999
KNOP, JANAN S ..... DES MOINES, IA	04/20/1999
KOROL, GEORGE WALTER ... TUSTIN, CA	04/20/1999
LEA, MELINDA HOLLIMON ..... OTISVILLE, NY	04/20/1999
LICHY, PAULINE BECKER ..... AVON, MN	04/20/1999
MCALISTER, JOLENE B ..... PELLA, IA	04/20/1999
MCCORMAC, ORVILLE T ..... CUYAHOGA FALLS, OH	04/20/1999
MCGINNIS, SHERYL DIANNE BROOKLYN CTR, MN	04/20/1999
MCQUADE, CHRISTA A ..... LOGAN, OH	04/20/1999
MCSORLEY, THERESA A ..... PHILADELPHIA, PA	04/20/1999
MEDWEDEFF, RICHARD ..... JOSHUA TREE, CA	04/20/1999
MULLINS, SHAWNA E ..... CLINTWOOD, VA	04/20/1999
NIGLOSCHY, JEAN A ..... FRAMINGHAM, MA	04/20/1999
OLINGER, JEFFREY ..... HUNTINGTON, IN	04/20/1999
OLIVEIRA, MARYANNE ..... MARION, MA	04/20/1999
OLIVERIO, SALVATORE L ..... DOYLESTOWN, OH	04/20/1999
PAGE, ANTONETTE RUGGIERO ..... HAZELTON, PA	04/20/1999
PATRICK, SCOTT BENSON ... SACRAMENTO, CA	04/20/1999
PESOLA, MAE GRACE ..... VERNDALE, MN	04/20/1999
PHILLIPS, SOLVEIG ..... NEW BRITAIN, CT	04/20/1999
PORTER, JENISE R ..... NORFOLK, VA	04/20/1999
PORTER, CRYSTAL D ..... CHERRYVILLE, NC	04/20/1999
PRATT, KIM DANETTE ..... LOCKEFORD, CA	04/20/1999
PRICE, KIRK ..... SUWANNE, GA	04/20/1999
REID, LAURA L ..... OAK BLUFFS, MA	04/20/1999
ROBERTSON, DARLA GAIL ... MAY, TX	04/20/1999
ROBINSON, JULIA J ..... ARLINGTON, VA	04/20/1999
ROCHA, MARK W	04/20/1999
ANZA, CA	
ROFSKY, MARVIN ..... GARDEN GROVE, CA	04/20/1999
ROOSA, ROBERT C ..... AGAWAM, MA	04/20/1999
SAGGIOMO, GINA M ..... WINCHESTER, VA	04/20/1999
SANDERS, MARC R ..... SCOTTSDALE, AZ	04/20/1999
SCHER, STEPHEN BARRY .... PITTSBURGH, PA	04/20/1999
SEVERANCE, DONALD W ..... ELK GROVE, CA	04/20/1999
SHILLINGBURG, KENNETH A TOMS BROOK, VA	04/20/1999
SMELAND, PATRICIA ANN ..... NEWPORT NEWS, VA	04/20/1999
SMITH, DOROTHY L ..... PHOENIXVILLE, PA	04/20/1999
SMITH, JUDITH A ..... NORTON, VA	04/20/1999
SMITH, ADRIENNE D ..... FAIRVIEW HGTS, IL	04/20/1999
SMITH, SHEILA ..... SPRINGFIELD, IL	04/20/1999
SOSKI, AMY J ..... MONACA, PA	04/20/1999
STREIFEL, JOHN A ..... CAMARILLO, CA	04/20/1999
SULLIVAN, KEVIN PAUL ..... PUYALLUP, WA	04/20/1999
THAMES, JEALLEAN ..... JACKSON, MS	04/20/1999
THOMAS, DANYELLE D ..... RICHMOND, VA	04/20/1999
THOMAS, BETHANY CHRISTINE ..... HOUSTON, TX	04/20/1999
THOMAS, ESSIE ..... DAVENPORT, IA	04/20/1999
THURMAN, TERRY L ..... DAVENPORT, IA	04/20/1999
TODD, MICHELLE ..... INDIANOLA, MS	04/20/1999
TURNER, SHELLEY MARIE .... FARIBAULT, MN	04/20/1999
VANDERLINDEN, CHARLES D KNOXVILLE, IA	04/20/1999
VANDYNE, DONALD L ..... WYTHEVILLE, VA	04/20/1999
WAGNER, WILLIAM ..... INDIANAPOLIS, IN	04/20/1999
WAKE, RENEE M ..... DANBURY, IA	04/20/1999
WALDRON, GAIL ..... SAN DIEGO, CA	04/20/1999
WALDROUP, KIMBERLY D ..... KANNAPOLIS, NC	04/20/1999
WALKER, GLORIDA JOHNSON ..... CHINO, CA	04/20/1999
WILDEMAN, LEONARD H ..... TUCSON, AZ	04/20/1999
WILLIAMS, JUDITH D ..... DANVILLE, VA	04/20/1999
WINSHEIMER, WILLIAM G ..... CARLISLE, PA	04/20/1999
WIXSON, LIOARA I ..... SKOKIE, IL	04/20/1999
WONG, LELAND TRACY ..... LONG BEACH, CA	04/20/1999
WOODS, CHARLES J	04/20/1999

Subject city, state	Effective date
TUCSON, AZ	
FRAUD/KICKBACKS	
AMERICAN MEDICAL TECHNOLOGY ..... LAKEWOOD, NJ	06/22/1998
DAVE E SCHEINER ASSOCIATES INC ..... PHILADELPHIA, PA	01/25/1999
PIUCK, CHARLOTTE L ..... OAKLAND, NJ	09/01/1998
UNIVERSAL HEALTH CARE SYSTEMS ..... CARY, IL	10/15/1998
WEISS, WILLIAM ..... CARY, IL	10/15/1998
OWNED/CONTROLLED BY CONVICTED/EXCLUDED	
ACLF MEDICAL SERVICES, INC ..... MIAMI, FL	04/20/1999
AMERICAN PRUDENT CARE PHOENIX, AZ	04/20/1999
AYALA MEDICAL CENTER, INC ..... HIALEAH, FL	04/20/1999
CARIDAD MEDICAL CENTER, CORP ..... MIAMI, FL	04/20/1999
FREDERICK SPINAL CARE CENTER ..... FREDERICK, MD	04/20/1999
MED-CARE & MEDICAL CTR OF DADE ..... MIAMI, FL	04/20/1999
NESTOR GARCIA, MD, PA ..... MIAMI, FL	04/20/1999
ST THOMAS MEDICAL CLINIC LOS ANGELES, CA	04/20/1999
TECHNIQUE MEDICAL DIAGNOSTICS ..... MIAMI, FL	04/20/1999
VALRICO REHAB SERVICES, INC ..... VALRICO, FL	04/20/1999
DEFAULT ON HEAL LOAN	
ABADURA, HUSSEIN ..... PHILADELPHIA, PA	04/20/1999
ANDREWS, CHRIS E ..... SHINGLE SPRINGS, CA	04/20/1999
BESHQOY, YOUSEF ..... HUNTINGTON BCH, CA	04/20/1999
BOLDEN, CHARLES W ..... MEYERSDALE, PA	04/20/1999
BORJESON, ROBBI LIN ..... PHOENIX, AZ	04/20/1999
CREEF, MICHAEL S ..... CHESAPEAKE, VA	04/20/1999
EPPERSON, ELAINE C ..... POULSBO, WA	04/20/1999
HAECKEL, JOSEPH B ..... GILROY, CA	04/20/1999
HAMILTON, WINIFRED ..... SEATTLE, WA	04/20/1999
HEAD, PHILIP A JR ..... GALVESTON, TX	04/20/1999
HENRY, CAMILLE M ..... HYATTSVILLE, MD	04/20/1999
HERNANDEZ, NILO A JR ..... MIAMI, FL	04/20/1999
HOFFMAN, JANICE S ..... CANAL WINCHESTER, OH	04/20/1999
HONEYCUTT, JOHN G ..... JASPER, AL	04/20/1999
HORVATH, THOMAS ..... ISLAND PARK, NY	04/20/1999
JAY, WAYNE DOYLE ..... IOLA, KS	04/20/1999
JORDEN, TERRANCE K ..... BUFFALO, NY	04/20/1999
KELLY (SOLURI), LAURA ..... FARMINGDALE, NY	04/20/1999
KHALSA, SATPURKHA S ..... SANTA FE, NM	04/20/1999
KOCHENDORFER, GLEN R ... SEATTLE, WA	04/20/1999
KUCH, JAMES E ..... BELLFLOWER, CA	04/20/1999
MICCICHE, ROBERT J ..... PENSACOLA, FL	04/20/1999
MORGAN, DAVID E SR ..... DICKENS, TX	04/20/1999
MUNOZ, RAFAEL A ..... JACKSON HGTS, NY	04/20/1999
PORTER, BRENDA YVONNE KINGSTON, NY	04/20/1999
QUINN, MARK P ..... BROOKLYN, NY	04/20/1999
RAMOS, MARITZA ..... RIO PIEDRAS, PR	04/20/1999
RORER, RICHARD S ..... ARLINGTON, TX	04/20/1999
ROSE, LORRAINE B ..... RESEDA, CA	04/20/1999
TAYLOR, KENNETH D ..... METARIE, LA	04/20/1999
WELNER, ALAN H ..... NEW YORK, NY	04/20/1999
SETTLEMENT AGREEMENTS	
CHUNG, MELODY ..... MIAMI, FL	11/17/1998
COCHRAN, CHERYL ..... ANNAPOLIS, MD	01/07/1998
COCHRAN, TIMOTHY ..... ANNAPOLIS, MD	01/07/1998
CORVO, SANDRA ..... HIALEAH GARDENS, FL	10/19/1998
CORVO, RENE ..... HIALEAH GARDENS, FL	10/19/1998
GALLOWAY PAIN CONTROL CTR, INC ..... MIAMI, FL	11/17/1998
GILBERTO PEREZ-FRANCO .. HIALEAH, FL	10/19/1998
NORTHEAST MEDICAL SUPPLIES INC ..... BURLINGTON, VT	08/24/1998
PEREZ-FRANCO, GILBERTO MIAMI, FL	10/19/1998
POPACK, SAMUEL ..... BROOKLYN, NY	08/24/1998
RASKIN, YITCHOK ..... BURLINGTON, VT	08/24/1998
RASKIN, DEVORAH ..... BURLINGTON, VT	08/24/1998
UNITED MEDICAL, INC ..... ANNAPOLIS, MD	01/07/1998

Dated: March 26, 1999.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 99–8768 Filed 4–7–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; Comment Request; Organ Procurement Survey

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 C.F.R. 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the Department of Clinical Bioethics, National Institutes of Health (NIHDCB) to request approval for a new information collection, the Organ Procurement Survey. The proposed information collection was previously published in the **Federal Register** on May 5, 1998, page 24815 and allowed 60-days for public comment. No public comments were received. However, a respondent group has been deleted. This collection will now only involve surveying Organ Procurement Organizations (OPOs). The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

PROPOSED COLLECTION:

Title: Organ Procurement Survey. *Type of Information Collection Request:* NEW. *Need and Use of Information Collection:* Respondents for this telephone survey will be the directors of procurement (or executive director if the director of procurement is not available) of the 62 U.S. Organ Procurement Organizations (OPOs). Telephone interviews will last one half hour and are intended to provide information about OPOs' policies and practices regarding consent for organ donation. Data collected will help the National Institutes of Health (NIH) to serve patients at the NIH Clinical Center who are interested in the option of organ donation. The data collected will also help other medical professionals across the country in such consultation and will assist respondents and policy

makers in understanding the practice of organ donation nationwide. Results of the survey will be reported confidentially, either in the aggregate or stripped of individual identifiers. *Frequency of Response:* Once. *Affected Public:* Business or other for-profit; Not-for-profit institutions; Federal Government. *Type of Respondents:* OPOs. The annual reporting burden is as follows:

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent	Average burden hours per response	Estimated total annual burden hours requested
OPOs (directors of procurement or executive directors)	62	1	0.5	31
Total	62			31

The annualized cost to respondents is estimated at; $3,000,00. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request For Comments

Written comments and/or suggestions from the public and affected agencies should address one or more of the following points: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, D.C. 20503, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Dr. David Wendler, Department of Clinical Bioethics, DCB, CC, NIH, Building 10, Room 1C 118, 9000 Rockville Pike, Bethesda, MD 20892–1156, or call non-toll-free number (301) 435–8726 or e-mail your request, including your address to: dwendler@nih.gov.

Comments Due Date

Comments regarding this information collection are best assured of having their full effect if received on or before May 10, 1999.

Dated: March 16, 1999.

David K. Henderson,

Deputy Director, Warren G. Magnuson Clinical Center, National Institutes of Health.

[FR Doc. 99–8670 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Cooperative Research and Development Agreement (CRADA) Opportunity to Develop a Library of New cDNA Clones Derived From Mouse Stem Cells

AGENCY: NIA, NIH, DHHS.

ACTION: Notice.

SUMMARY: The Laboratory of Genetics, in the National Institute on Aging (NIA), is seeking at least one collaborator to participate in a Cooperative Research and Development Agreement (CRADA) to develop uses for a growing library of new cDNA clones. The Laboratory of Genetics has been collecting the cDNA clones from mouse embryonic tissues. A current first cohort of 15,000 unique genes, with an average length of 1.5 kb, includes more than 40% that are previously unknown by comparison with all entries in dbEST (2/1/99); subsequent additional cohorts, aiming at more uniformly full-length clones and including comparable fractions of additional previously unknown genes, are in development. The NIA is interested in developing this unique cDNA library into a variety of prognostic, diagnostic, and therapeutic applications.

This opportunity is not necessarily limited to a single collaborator or a single CRADA; all viable proposals that are consistent with the mission of the NIA and the goals of the Laboratory of Genetics will be considered. If more than one acceptable CRADA proposal is received, NIA may require that each research plan be crafted to protect against overlap. The term of each CRADA will be up to five (5) years.

DATES: Interested parties should notify the National Cancer Institute's Technology Development & Commercialization Branch, in writing, of their intent to file a formal proposal no later than May 24, 1999. Formal proposals must be submitted to this office no later than June 7, 1999.

ADDRESSES: Inquiries and proposals regarding this opportunity should be addressed to Bruce D. Goldstein; NCI Technology Development & Commercialization Branch; Suite 450, 6120 Executive Blvd.; Rockville, Maryland, 20852 (Tel. # 301–496–0477, FAX # 301–402–2117). Scientific inquiries should be addressed to Dr. David Schlessinger, Chief; NIA Laboratory of Genetics, 5600 Nathan Shock Drive; Baltimore, Maryland, 21224 (Tel. # 410–558–8337, FAX # 410–558–8331). Copies of the PHS Model CRADA are available.

SUPPLEMENTARY INFORMATION: A CRADA is the anticipated joint agreement to be entered pursuant to the Federal Technology Transfer Act of 1986, as amended by the National Technology Transfer and Advancement Act (Pub. L. 104–113 (Mar. 7, 1995)) and by Executive Order 12591 of April 10, 1987.

A CRADA is an agreement designed to enable certain collaborations between Government laboratories and non-Government laboratories. It is not a grant, and is not a contract for the procurement of goods/services. THE NIA IS PROHIBITED FROM TRANSFERRING FUNDS TO A CRADA COLLABORATOR. Under a CRADA, the NIA can offer the selected collaborator(s) access to facilities, staff, materials, and expertise. The collaborator(s) may contribute facilities, staff, materials, expertise, and funding to the collaboration. A CRADA collaborator may elect an option to an exclusive or non-exclusive license to Government intellectual property rights

arising under the CRADA, and may qualify as a co-inventor of new technology developed under the CRADA. Any party is eligible to participate; however, as between two or more sufficient, overlapping research proposals (where the overlap cannot be cured), the NIA, as specified in 15 U.S.C. 3710a(c)(4), will give special consideration to small businesses, and will give preference to business units located in the U.S. that agree to manufacture CRADA products in the U.S.

The NIA's principal objectives for this CRADA opportunity are the rapid publication of research findings, and the timely commercialization of prognostic, diagnostic, or therapeutic products. In particular, under the present proposal, the specific goals of the CRADA may include, but are not necessarily be limited to, the development of the following technology:

- Development of one or more diagnostic assays using gene arrays;
- Creation of pharmaceutical compositions derived from specific cDNA sequences; and
- Development of improved informatics concerning the analysis of expression of cDNA sequences identified by NIA.

Collaborators are encouraged to recommend additional applications and technologies to be developed in their written proposals.

Policy Considerations

The rapid advancement of many important avenues of biomedical research depend on the ready access to high quality clones and sequences of mammalian cDNA. The NIA acknowledges that, to provide commercial parties an incentive to develop a technology into a product, patent applications sometimes must directly claim a genetic sequence or clone so that a related diagnostic, prognostic, or therapeutic invention will be adequately protected. At the same time, the NIA is concerned that patent applications claiming clones and their associated sequences ''per se''—in other words, in the absence of a demonstrated diagnostic, prognostic, or therapeutic function—could have a chilling effect on other research into products that will benefit the public health. Consequently, the NIA is committed, wherever possible, to making such per se cDNA libraries, clones, and sequences publicly available, without restriction, in a timely manner (for example, by placing them in public databases and repositories). All successful collaborators will acknowledge NIA's policy and will take meaningful steps to accommodate it wherever possible.

Party Contributions

The role of NIA may include the following:

(1) Plan research studies, interpret research results, and, with the collaborator, jointly publish the conclusions;

(2) Provide collaborator with access to mouse-embryonic cDNA clones, sequence information, and other research data (both already collected and yet to be collected);

(3) Provide staff, expertise, & materials for the development and testing of promising products; and

(4) Provide work space and equipment for testing of any prototype compositions developed.

The role of the successful collaborator will include the following:

(1) Provide significant intellectual, scientific, and technical expertise in the development and manufacture of relevant products;

(2) Plan research studies, interpret research results, and, with NIA, jointly publish the conclusions;

(3) Provide to NIA a supply of materials, access to necessary proprietary technology and/or data, and as necessary for the project, staff and funding in support of the research goals; and

(4) Provide resources to develop and market any promising products.

Other contributions may be necessary for particular proposals.

Selection Criteria

Proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following qualifications:

(1) Expertise:

A. Expertise in developing and producing high quality pharmaceutical compositions;

B. Demonstrated ability to secure national marketing and distribution of its products (international distribution a plus);

C. Demonstrated expertise in informatics, and in handling of arrays of clones and genes; and

D. Demonstrated intellectual ability in the prediction and verification of diagnostic, prognostic, and/or therapeutic products based on sequences and genetic properties.

(2) Reliability as a research partner:

A. Produces quality products in a timely manner (for example, as demonstrated by a history of meeting benchmarks in licenses);

B. Indications of high levels of satisfaction by industry with the collaborator's products; and

C. Commitment to supporting the advancement of scientific research, as evidenced by a willingness to publish research results in a prompt manner, and a willingness to be bound by DHHS and PHS policies regarding:

(i) the public distribution of unmodified genetic sequences and pure research tools,

(ii) the care and handling of animals, and

(iii) testing in human subjects.

Proposals MUST address the collaborator's policy on the handling of intellectual property rights in, and the public dissemination of, cDNA sequences, clones, and libraries to be developed under a prospective CRADA.

(3) Physical Resources:

A. An established headquarters, with office space and equipment;

B. Access to the organization during business hours by telephone, facsimile, courier, U.S. Post, e-mail, the World-Wide-Web, and other evolving technologies; and

C. Sufficient financial and material resources to support, at a minimum, the anticipated activities of the CRADA to meet the needs of NIA under the proposal.

Dated: March 19, 1999.

Kathleen Sybert,

Director, Technology Development & Commercialization Branch, National Cancer Institute, National Institutes of Health.

[FR Doc. 99–8672 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice if hereby given of a meeting of the Director's Council of Public Representatives.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Director's Council of Public Representatives.

Date: April 21, 1999.

Time: 8:30 am to 4:00 pm.

Agenda: Among topics proposed for discussion are: (1) Health disparities in the U.S.; (2) clinical trials database on Internet;

and (3) models of public participation in NIH priority setting and other activities.

Place: National Institutes of Health, Building 31, C Wing, Conference Room 10, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Anne Thomas, Director, Office of Communications and Public Liaison, Office of the Director, National Institutes of Health, 9000 Rockville Pike, Building 1, Room 344, Bethesda, MD 20892, (301) 496–4461.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 1, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8663 Filed 4–7–99; 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel Interdisciplinary Studies in the Genetic Epidemiology of Cancer.

Date: May 3–4, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Ray Bramhall, PhD., Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Blvd, Rockville, MD 20892, (301) 496–3428.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; (93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 1, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8659 Filed 4–7–99; 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.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel PAR–98–023 SMALL GRANTS PROGRAM FOR CANCER EPIDEMIOLOGY.

Date: April 28, 1999.

Time: 7:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, Bethesda, MD 20017.

Contact Person: Michael B. Small, Mph, PhD, Scientific Review Administrator, National Cancer Institute, Division of Extramural Activities, 6130 Executive Blvd., Room 643, Bethesda, MD 20892 301–496–7929.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 1, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8661 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee to the Director, National Cancer Institute.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee to the Director, National Cancer Institute.

Date: April 19, 1999.

Time: 2:30 p.m. to 3:30 p.m.

Agenda: The purpose of the meeting will be to update the Committee on the progress of the NCI working groups.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Room 11A10, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Susan J. Waldrop, Executive Secretary, National Institutes of Health, National Cancer Institute, Office of Science Policy, Bethesda, MD 20892, 301/496–1458.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: April 1, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8662 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4 and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel General Clinical Research Centers Review Committee.

Date: May 6, 1999.

Time: 8:00 AM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Charles G. Hollingsworth, DPH, Deputy Director, Office of Review, National Center for Research Resources, 6705 Rockledge Drive, MSC 7965, Room 6018, Bethesda, MD 20892–7965, 301–435–0806.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: April 1, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8660 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIA.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL INSTITUTE ON AGING, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIA, Review of the Laboratory of Clinical Investigations.

Date: May 10–11, 1999.

Closed: May 10, 1999, 7:00 p.m. to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Best Western Hotel & Conference Center, Fells Point Room, Baltimore, MD 21224.

Closed: May 11, 1999, 8:00 a.m. to 8:15 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Open: May 11, 1999, 8:15 a.m. to 5:00 p.m.

Agenda: For presentations, discussion and poster session.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Closed: May 11, 1999, 5:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825.

Contact Person: Dan L. Longo, MD, Scientific Director, National Institute of Aging, Gerontology Research Center, National Institutes of Health, 5600 Nathan Shock Drive, Baltimore, MD 21224–6825, 410–558–8110, dl14q@nia.nih.gov

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 31, 1999.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–8665 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel. The Role of Tau in Neurodegeneration.

Date: April 16, 1999.

Time: 1:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott, 4600 San Pablo Road, Jacksonville, FL 32224.

Contact Person: William A. Kachadorian, PhD, The Bethesda Gateway Building, 7201 Wisconsin Avenue/Suite 2C212, Bethesda, MD 20892, (301) 496–9666.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: March 31, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8666 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: April 19, 1999.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Holiday Inn, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tommy L. Broadwater, PhD, Chief, Grants Review Branch, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25U, Bethesda, MD 20892, 301–594–4952.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: April 29, 1999.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bethesda, Delaware Room, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara Detrick, PhD, Scientific Review Administrator, National Institutes of Health, MIAMS, Bldg. 45, Room 5AS25N, Bethesda, MD 20892, 301–594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: April 1, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8667 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: April 28–29, 1999.

Time: 8:45 a.m. to 4:30 p.m.

Agenda: The Office of AIDS Research Advisory Council agenda includes Overview of the HIV Prevention Science Agenda at NIH, NIH FY 2001 Plan for HIV-Related Research, and other Council business.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Linda Reck, Head, Program, Planning and Evaluation, Office of AIDS Research, NIH, Bethesda, MD 20892, (301) 403–8655.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 31, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8664 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Advisory Committee on Research on Women's Health.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Advisory Committee on Research on Women's Health.

Date: May 6, 1999.

Time: 1:30 PM to 6:00 PM.

Agenda: To provide advice to the Office of Research on Women's Health (ORWH) on its research agenda and to provide recommendations regarding ORWH activities.

Place: National Institutes of Health, Building 31, Conference Room 10, Bethesda, MD 20892.

Contact Person: Joyce Rudick, Director, Programs & Management, Office of Research on Women's Health, Office of the Director, National Institutes of Health, Building 1, Room 201, Bethesda, MD 20892, 301/402–1770.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantage Backgrounds; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program, National Institutes of Health, HHS)

Dated: March 25, 1999.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 99–8669 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Public Health Service; Office of Research on Women's Health; Notice of Meeting—''Biologic & Molecular Mechanisms for Sex Differences in Pharmacokinetics, Pharmacodynamics and Pharmacogenetics''

Notice is hereby given that the Office of Research on Women's Health (ORWH), Office of the Director, National Institutes of Health (NIH), will convene a workshop on May 5, 1999, 8:30 am–5:45 pm; May 6, 1999 at 8:30 am–12:30 pm.

The research planning workshop will address current and future research on differences in the ways in which women and men respond to pharmacologic agents. This workshop will provide a forum for scientific discussion of the biologic and molecular mechanisms that underlie differences in the effects and action of drugs in women and men. While data are limited, studies have documented differences between women and men in the safety and effectiveness of some drugs and, on a molecular level, in differences in drug metabolizing enzymes. The workshop will feature scientific presentations that will delineate the current state of knowledge, identify emerging issues or continuing gaps in knowledge, and catalyze discussion of methods to assess and predict sex-based and individual variations in response to drugs. The program will feature leaders in the fields of pharmacokinetics, pharmacodynamics, pharmacogenetics, hormonal influences on drugs, and new technologies in drug development.

Also serving as co-sponsors of this research planning workshop are the Office of Women's Health of the U.S. Food and Drug Administration; National Heart, Lung and Blood Institute, National Human Genome Research Institute; National Institute on Aging;

National Institute of Child Health and Human Development; National Institute of Dental and Craniofacial Research; National Institute of Environmental Health Sciences; National Institute of General Medical Sciences; National Institute of Neurological Disorders and Stroke; and the Pain Consortium of the NIH.

Advance registration and confirmation of registration is required as seating is limited. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The workshop will be held at Lister Hill Auditorium, National Library of Medicine, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 30892. The contact person is Ms. Gloria Williams, KRA Corporation, 1010 Wayne Avenue, Suite 850, Silver Spring, Maryland 20910. To register please call Ms. Williams at (301) 562–2340.

Dated: March 30, 1999.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 99–8671 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License; A_3 Adenosine Receptor Agonists and Antagonists

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 (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in: U.S. Patent Applicant Serial No. 60/092,292 filed July 10, 1998 entitled ''A_3 Adenosine Receptor Antagonist'', PCT application US97/01252 filed January 29, 1997 designating the U.S. entitled ''Dihydropyridine, Pyridine, Benzophyranone and Triazoloquinazolone Derivatives Their Preparation And Their Use As Adenosine Receptor Antagonists'' and 08/091,109 filed July 13, 1993 and abandoned and refiled as 08/163,324 on December 6, 1993 also now abandoned and refiled as 08/274,628 now issued as U.S. Patent No. 5,773,423 June 30, 1998 entitled ''A_3 Adenosine Receptor Agonists'', to Gilead Sciences, having a place of business in Foster City, California. The United States of America is the assignee of the patent rights in this invention.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before July 7, 1999 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Charles Maynard, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 243; Facsimile: (301) 402–0220; E-mail: MaynardC@od.nih.gov.

SUPPLEMENTARY INFORMATION: In an effort to develop an efficacious treatment involving the collection of various technology involving Adenosine receptors, the inventors posit that Adenosine may play several key physiological roles. In addition to its role in intermediary metabolism, adenosine displays a number of receptor-mediated physiological actions, including dilation of coronary vessels, inhibition of platelet aggregation, and inhabitation of lipolysis.

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 limited to the field of human therapeutics and may be granted unless, within 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.

Property filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted to response 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: March 30, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–8668 Filed 4–7–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies, and Laboratories That Have Withdrawn From the Program

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (59 FR 29916, 29925). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

If any laboratory has withdrawn from the National Laboratory Certification Program during the past month, it will be identified as such at the end of the current list of certified laboratories, and will be omitted from the monthly listing thereafter.

This Notice is now available on the internet at the following website: http://www.health.org/workpl.htm

FOR FURTHER INFORMATION CONTACT: Mrs. Giselle Hersh or Dr. Walter Vogl, Division of Workplace Programs, 5600 Fishers Lane, Rockwall 2 Building, Room 815, Rockville, Maryland 20857; Tel.: (301) 443–6014.

Special Note: Our office moved to a different building on May 18, 1998. Please use the above address for all regular mail and correspondence. For all overnight mail service use the following address: Division of Workplace Programs, 5515 Security Lane, Room 815, Rockville, Maryland 20852.

SUPPLEMENTARY INFORMATION:

Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Pub. L. 100–71. Subpart C of the Guidelines, ''Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies,'' sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an

applicant laboratory must undergo three rounds of performance testing plus an on-site inspection.

To maintain that certification a laboratory must participate in a quarterly performance testing program plus periodic, on-site inspections.

Laboratories which claim to be in the applicant stage of certification are not to be considered as meeting the minimum requirements expressed in the HHS Guidelines. A laboratory must have its letter of certification from SAMHSA, HHS (formerly: HHS/NIDA) which attests that it has met minimum standards.

In accordance with Subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

ACL Laboratories, 8901 W. Lincoln Ave., West Allis, WI 53227, 414–328–7840 (formerly: Bayshore Clinical Laboratory)

Advanced Toxicology Network, 15201 East I–10 Freeway, Suite 125, Channelview, TX 77530, 713–457–3784 / 800–888–4063 (formerly: Drug Labs of Texas, Premier Analytical Laboratories)

Advanced Toxicology Network, 3560 Air Center Cove, Suite 101, Memphis, TN 38118, 901–794–5770 / 888–290–1150

Aegis Analytical Laboratories, Inc., 345 Hill Ave., Nashville, TN 37210, 615–255–2400

Alabama Reference Laboratories, Inc., 543 South Hull St., Montgomery, AL 36103, 800–541–4931 / 334–263–5745

Alliance Laboratory Services, 3200 Burnet Ave., Cincinnati, OH 45229, 513–585–9000 (formerly: Jewish Hospital of Cincinnati, Inc.)

American Medical Laboratories, Inc., 14225 Newbrook Dr., Chantilly, VA 20151, 703–802–6900

Associated Pathologists Laboratories, Inc., 4230 South Burnham Ave., Suite 250, Las Vegas, NV 89119–5412, 702–733–7866 / 800–433–2750

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta Way, Salt Lake City, UT 84108, 801–583–2787/800–242–2787

Baptist Medical Center—Toxicology Laboratory, 9601 I–630, Exit 7, Little Rock, AR 72205–7299, 501–202–2783 (formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Lab. 8433 Quivira Rd., Lenexa, KS 66215–2802, 800–445–6917

Cox Health Systems, Department of Toxicology, 1423 North Jefferson Ave., Springfield, MO 65802, 800–876–3652/417–269–3093 (formerly: Cox Medical Centers)

Dept. of the Navy, Navy Drug Screening Laboratory, Great Lakes, IL, P.O. Box 88–6819, Great Lakes, IL 60088–6819, 847–688–2045/847–688–4171

Diagnostic Services Inc., dba DSI, 12700 Westlinks Drive, Fort Myers, FL 33913, 941–561–8200/800–735–5416,

Doctors Laboratory, Inc., P.O. Box 2658, 2906 Julia Dr., Valdosta, GA 31604, 912–244–4468

DrugProof, Division of Dynacare/ Laboratory of Pathology, LLC, 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672/800–898–0180 (formerly: Laboratory of Pathology of Seattle, Inc., DrugProof, Division of Laboratory of Pathology of Seattle, Inc.)

DrugScan, Inc., P.O. Box 2969, 1119 Mearns Rd., Warminster, PA 18974, 215–674–9310

Dynacare Kasper Medical Laboratories*, 14940–123 Ave., Edmonton, Alberta, Canada T5V 1B4, 403–451–3702 / 800–661–9876

ElSohly Laboratories, Inc., 5 Industrial Park Dr., Oxford, MS 38655, 601–236–2609

Gamma-Dynacare Medical Laboratories*, A Division of the Gamma-Dynacare Laboratory Partnership, 245 Pall Mall St., London, ON, Canada N6A 1P4, 519–679–1630

General Medical Laboratories, 36 South Brooks St., Madison, WI 53715, 608–267–6267

Hartford Hospital Toxicology Laboratory, 80 Seymour St., Hartford, CT 06102–5037, 860–545–6023

Info-Meth, 112 Crescent Ave., Peoria, IL 61636, 309–671–5199/800–752–1835 (Formerly: Methodist Medical Center Toxicology Laboratory)

Integrated Regional Laboratories, 1400 Northwest 12th Ave., Miami, FL 33136, 305–325–5784 (Formerly: Cedars Medical Center, Department of Pathology)

LabCorp Occupational Testing Services, Inc., 1904 Alexander Drive, Research Triangle Park, NC 27709, 919–672–6900/800–833–3984 (Formerly: CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)

LabCorp Occupational Testing Services, Inc., 4022 Willow Lake Blvd., Memphis, TN 38118, 901–795–1515/ 800–223–6339 (Formerly: MedExpress/National Laboratory Center)

LabOne, Inc., 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/ 800–728–4064 (formerly: Center for Laboratory Services, a Division of LabOne, Inc.)

Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)

Laboratory Specialists, Inc., 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823

Marshfield Laboratories, Forensic Toxicology Laboratory, 1000 North Oak Ave., Marshfield, WI 54449, 715–389–3734 / 800–331–3734

MAXXAM Analytics Inc.*, 5540 McAdam Rd., Mississauga, ON, Canada L4Z 1P1, 905–890–2555 (formerly: NOVAMANN (Ontario) Inc.)

Medical College Hospitals Toxicology Laboratory, Department of Pathology, 3000 Arlington Ave., Toledo, OH 43614, 419–383–5213

MedTox Laboratories, Inc., 402 W. County Rd. D, St. Paul, MN 55112, 651–636–7466/800–832–3244

Methodist Hospital Toxicology Services of Clarian Health Partners, Inc., Department of Pathology and Laboratory Medicine, 1701 N. Senate Blvd., Indianapolis, IN 46202, 317–929–3587

MetroLab-Legacy Laboratory Services, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–4512/800–950–5295

Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, Minnesota 55417, 612–725–2088

National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 805–322–4250

NWT Drug Testing, 1141 E. 3900 South, Salt Lake City, UT 84124, 801–268–2431/800–322–3361 (Formerly: NorthWest Toxicology, Inc.)

Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Ave., Eugene, OR 97440–0972, 541–341–8092

Pacific Toxicology Laboratories, 6160 Variel Ave., Woodland Hills, CA 91367, 818–598–3110 (Formerly: Centinela Hospital Airport Toxicology Laboratory

Pathology Associates Medical Laboratories, 11604 E. Indiana, Spokane, WA 99206, 509–926–2400/ 800–541–7891

PharmChem Laboratories, Inc., 1505–A O'Brien Dr., Menlo Park, CA 94025, 650–328–6200/800–446–5177

PharmChem Laboratories, Inc., Texas Division, 7610 Pebble Dr., Fort Worth, TX 76118, 817–595–0294 (formerly: Harris Medical Laboratory)

Physicians Reference Laboratory, 7800 West 110th St., Overland Park, KS 66210, 913–339–0372/800–821–3627

Poisonlab, Inc., 7272 Clairemont Mesa Blvd., San Diego, CA 92111, 619–279–2600/800–882–7272
Quest Diagnostics Incorporated, 4444 Giddings Road, Auburn Hills, MI 48326, 810–373–9120/800–444–0106 (formerly: HealthCare/Preferred Laboratories, HealthCare/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, National Center for Forensic Science, 1901 Sulphur Spring Rd., Baltimore, MD 21227, 410–536–1485 (formerly: Maryland Medical Laboratory, Inc., National Center for Forensic Science, CORNING National Center for Forensic Science)
Quest Diagnostics Incorporated, 4770 Regent Blvd., Irving, TX 75063, 972–916–3376/800–526–0947 (formerly: Damon Clinical Laboratories, Damon/MetPath, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, 875 Greentree Rd., 4 Parkway Ctr., Pittsburgh, PA 15220–3610, 412–920–7733/800–574–2474 (formerly: Med-Chek Laboratories, Inc., Med-Chek/Damon, MetPath Laboratories, CORNING Clinical Laboratories)
Quest Diagnostics of Missouri LLC, 2320 Schuetz Rd., St. Louis, MO 63146, 314–991–1311/800–288–7293 (formerly: Quest Diagnostics Incorporated, Metropolitan Reference Laboratories, Inc., CORNING Clinical Laboratories, South Central Division)
Quest Diagnostics Incorporated, 7470 Mission Valley Rd., San Diego, CA 92108–4406, 619–686–3200/800–446–4728 (formerly: Nichols Institute, Nichols Institute Substance Abuse Testing (NISAT), CORNING Nichols Institute, CORNING Clinical Laboratories)
Quest Diagnostics Incorporated, One Malcolm Ave., Teterboro, NJ 07608, 201–393–5590 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratory)
Quest Diagnostics Incorporated, 1355 Mittel Blvd., Wood Dale, IL 60191, 630–595–3888 (formerly: MetPath, Inc., CORNING MetPath Clinical Laboratories, CORNING Clinical Laboratories Inc.)
Scientific Testing Laboratories, Inc., 463 Southlake Blvd., Richmond, VA 23236, 804–378–9130
Scott & White Drug Testing Laboratory, 600 S. 31st St., Temple, TX 76504, 254–771–8379/800–749–3788
S.E.D. Medical Laboratories, 5601 Office Blvd., Albuquerque, NM 87109, 505–727–6300/800–999–5227
SmithKline Beecham Clinical Laboratories, 3175 Presidential Dr., Atlanta, GA 30340, 770–452–1590 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–637–7236 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 801 East Dixie Ave., Leesburg, FL 34748, 352–787–9006 (formerly: Doctors & Physicians Laboratory)
SmithKline Beecham Clinical Laboratories, 400 Egypt Rd., Norristown, PA 19403, 610–631–4600/800–877–7484 (formerly: SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 506 E. State Pkwy., Schaumburg, IL 60173, 847–447–4379/800–447–4379 (formerly: International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Ave., Van Nuys, CA 91405, 818–989–2520/800–877–2520
South Bend Medical Foundation, Inc., 530 N. Lafayette Blvd., South Bend, IN 46601, 219–234–4176
Southwest Laboratories, 2727 W. Baseline Rd., Tempe, AZ 85283, 602–438–8507
Sparrow Health System, Toxicology Testing Center, St. Lawrence Campus, 1210 W. Saginaw, Lansing, MI 48915, 517–377–0520 (Formerly: St. Lawrence Hospital & Healthcare System)
St. Anthony Hospital Toxicology Laboratory, 1000 N. Lee St., Oklahoma City, OK 73101, 405–272–7052, Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 2703 Clark Lane, Suite B, Lower Level, Columbia, MO 65202, 573–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Ave., Miami, FL 33166, 305–593–2260
UNILAB, 18408 Oxnard St., Tarzana, CA 91356, 818–996–7300/800–492–0800 (formerly: MetWest-BPL Toxicology Laboratory)
Universal Toxicology Laboratories, LLC, 10210 W. Highway 80, Midland, Texas 79706, 915–561–8851/888–953–8851
UTMB, Pathology-Toxicology Laboratory, University of Texas Medical Branch, Clinical Chemistry Division, 301 University Boulevard, Room 5.158, Old John Sealy, Galveston, Texas 77555–0551, 409–772–3197

The following laboratory voluntarily withdrew on March 19, 1999 from the National Laboratory Certification Program:

Laboratory Corporation of America, 888 Willow St., Reno, NV 89502, 702–334–3400 (formerly: Sierra Nevada Laboratories, Inc.)

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. DHHS, with the DHHS' National Laboratory Certification Program (NLCP) contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do. Upon finding a Canadian laboratory to be qualified, the DHHS will recommend that DOT certify the laboratory (**Federal Register**, 16 July 1996) as meeting the minimum standards of the ''Mandatory Guidelines for Workplace Drug Testing'' (June 9, 1994, 59 FR 29908–29931). After receiving the DOT certification, the laboratory will be included in the monthly list of DHHS certified laboratories and participate in the NLCP certification maintenance program.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 99–8724 Filed 4–7–99; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Comprehensive Conservation Plan for Browns Park National Wildlife Refuge, Maybell, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Pursuant to the Refuge Improvement Act of 1997, the U.S. Fish and Wildlife Service has published the Browns Park National Wildlife Refuge Draft Comprehensive Conservation Plan. This plan describes how the FWS intends to manage the Browns Park NWR for the next 10–15 years.

ADDRESSES: A copy of the Plan may be obtained by writing to U.S. Fish and Wildlife Service, Browns Park NWR, 1318 Highway 318, Maybell, CO 81640.

FOR FURTHER INFORMATION CONTACT: Carol Taylor, U.S. Fish and Wildlife Service, P.O. Box 25486 DFC, Denver, CO 80225, 303–236–8145 extension 661; fax 303–236–4792.

SUPPLEMENTARY INFORMATION: Browns Park NWR is located in northwest Colorado. Implementation of the Plan will focus on adaptive resource management of riparian, wetland, grassland, and semidesert shrubland habitats and improved opportunities for compatible wildlife-dependent recreation. Habitat monitoring and evaluation will be emphasized as the Plan is implemented. Opportunities for compatible wildlife-dependent recreation will continue to be provided.

Dated: April 1, 1999.

Terry T. Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 99–8728 Filed 4–7–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection Request for Student Transportation Mileage Form, OMB #1076–0134, has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

DATES: Submit comments and suggestions on or before May 10, 1999.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Send copy of your comments to Dalton J. Henry, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street, NW, MS–3512 MIB, Washington, DC 20240–0001.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information may be obtained by contacting Dalton J. Henry, (202) 208–3550.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is needed to collect transportation mileage for Bureau funded schools for the purpose of allocating transportation funds. A request for comments on this information collection was published in the **Federal Register** on November 7, 1997 (62 FR 60255). No comments were received by the Bureau. After a review of the Burden of Hours, decision was made to change the Annual burden of hours from 158 to 696 and the 1.5 hours of completion time to fill the form was changed to 6 hours. This is not an actual increase in burden because it reflects a more accurate description of the number of buses and also the increasing number of tribes contracting for the school operation.

II. Request for Comments

Comments are invited on (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration.

III. Data

Title: Office of Indian Education Programs Indian School Equalization Program (ISEP) Student Transportation.

OMB approval number: 1076–0134.

Frequency: Annually, during student count week.

Description of respondents: Tribal schools administrators.

Estimated completion time: 6 hours.

Annual responses: 116.

Annual burden hours: 696.

Bureau Clearance Officer: Nancy Jemison, 202–208–4174.

Dated: March 31, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–8656 Filed 4–7–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice announces that the Information Collection request for Adult Education Annual Report Form, OMB #1076–0120, has been submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 25).

DATES: Submit comments and suggestions on or before May 10, 1999.

ADDRESSES: Written comments should be sent directly to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Department of the Interior, Docket Library, Room 10102, 725 17th Street, NW, Washington, DC 20503. Send copy of your comments to Dalton J. Henry, Bureau of Indian Affairs, Office of Indian Education Programs, 1849 C Street, NW, MS–3512 MIB, Washington, DC 20240–0001.

FOR FURTHER INFORMATION CONTACT: Copies of the collection of information may be obtained by contacting Dalton J. Henry, (202) 208–3550.

SUPPLEMENTARY INFORMATION:

I. Abstract

The information collection is necessary to assess the need for adult education programs in accordance with 25 CFR Part 46, Subpart A, Sections 46.20 Program Requirements and 46.30 Records and Reporting Requirements of Adult Education Program. A request for comments on this information collection was published in the **Federal Register** on November 7, 1997 (62 FR 60262). One comment was received by the Bureau, indicating that the reporting period did not coincide with the fiscal year of the contract period. The Bureau will maintain the reporting period with the correction of August 30, to August 1–July 31, to reflect the school year period.

II. Request for Comments

Comments are invited on (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (hours and cost) of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on respondents, including through the use of automated collection techniques or other forms of information technology.

The Office of Management and Budget has up to 60 days to approve or disapprove the information collection but may respond after 30 days; therefore, comments submitted in response to this notice should be submitted to OMB within 30 days in order to assure their maximum consideration.

III. Data

Title: Bureau of Indian Affairs Adult Education Program Annual Report Form.

OMB approval number: 1076–0120.

Frequency: Annually.

Description of respondents: Tribal Adult Education Program Administrators.

Estimated completion time: 4.0 hours.

Annual responses: 70.

Annual burden hours: 280.

Bureau Clearance Officer: Nancy Jemison, 202–208–4174.

Dated: March 24, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–8657 Filed 4–7–99; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; N–61879]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following described public lands in Esmeralda County, Nevada, have been examined and found suitable for conveyance (patent) to Esmeralda County under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C 869 *et seq.*). Esmeralda County is currently using lands for a municipal solid waste transfer station to serve Silver Peak, Nevada, and the surrounding area. Esmeralda County will continue using the lands for this purpose once it is conveyed.

Mount Diablo Meridian, Nevada

T. 2 S., R. 39 E.,
Sec. 27, SW¼NE¼NW¼;
containing 10 acres, more or less.

The lands are not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest. The patent, when issued will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States pursuant to the Act of August 30, 1890 (43 U.S.C. 945);

2. All mineral deposits shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits under applicable laws and regulations as the Secretary of the Interior may prescribe; will contain the following provisions:

1. Esmeralda County, its successors or assigns, assumes all liability for and shall defend, indemnify, and save harmless the United States and its officers, agents, representatives, and employees (hereinafter referred to in this clause as the United States), from all claims, loss, damage, actions, causes of action, expense, and liability (hereinafter referred to in this clause as claims) resulting from, brought for, or on account of, any personal injury, threat of personal injury, or property damage received or sustained by any person or persons (including the patentee's employees) or property growing out of, occurring, or attributable directly or indirectly, to the disposal of solid waste on, or the release of hazardous substances from Mount Diablo Meridian, Nevada, T. 2 S., R. 39 E., sec. 27, SW¼NE¼NW¼, regardless of whether such claims shall be attributable to: (1) The concurrent, contributory, or partial fault, failure, or negligence of the United States, or (2) the sole fault, failure, or negligence of the United States;

2. No portion of the land shall under any circumstances revert to the United States if any such portion has been used for solid waste disposal or for any other purpose which may result in the disposal, placement, or release of any hazardous substance;

3. If, at any time, the patentee transfers to another party ownership of any portion of the land not used for the purpose specified in the application and approved plan of development, the patentee shall pay the Bureau of Land Management the fair market value, as determined by the authorized officer, of the transferred portion as of the date of transfer, including the value of any improvements thereon;

4. The above described land is to be used as a solid waste transfer station by Esmeralda County, Nevada. Upon closure, the site may contain small quantities of commercial and household hazardous waste as determined in the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6901), and defined in 40 CFR 261.4 and 261.5. Although there is no indication these materials pose any significant risk to human health or the environment, future land uses should be limited to those which do not penetrate the liner or final cover of the site unless excavation is conducted subject to applicable State and Federal requirements; and will be subject to valid existing rights.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Tonopah Field Station, 1553 South Main Street, Tonopah, Nevada.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed conveyance or classification of the lands to the Acting Assistant Field Manager, Tonopah Field Station, P.O. Box 911, Tonopah, Nevada 89049.

Classification Comments:

Interested parties may submit comments involving the suitability of the land for a municipal solid waste transfer station. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments.

Interested parties may submit comments regarding the specific use proposed in the application and plan of

development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a municipal solid waste transfer station.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land will become effective 60 days from the date of publication in the **Federal Register**. The lands will not be conveyed until after the classification becomes effective.

Dated: March 26, 1999.

W. Craig MacKinnon,

Acting Assistant Field Manager, Tonopah.

[FR Doc. 99–8676 Filed 4–7–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf, Western Gulf of Mexico, Oil and Gas Lease Sale 174

AGENCY: Minerals Management Service, Interior.

ACTION: Availability of the Proposed Notice of Sale.

Gulf of Mexico Outer Continental Shelf (OCS); Notice of Availability of the Proposed Notice of Sale for proposed Oil and Gas Lease Sale 174 ion the Western Gulf of Mexico. This Notice of Availability is published pursuant to 30 CFR 256.29(c), as a matter of information to the public.

With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the ICS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

The proposed Notice for proposed Sale 174 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 25, 1999.

Dated: March 31, 1999.

Lucy Querques Denett,

Acting Director, Minerals Management Service.

[FR Doc. 99–8690 Filed 4–7–99; 8:45 am]

BILLING CODE 4310–MR–M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–246–247 (Review) and 731–TA–207 (Review)]

Brazing Copper Wire and Rod From New Zealand and South Africa; Cellular Mobile Telephones and Subassemblies From Japan

AGENCY: United States International Trade Commission.

ACTION: Termination of five-year reviews.

SUMMARY: The subject five-year reviews were initiated in January 1999 to determine whether revocation of the existing antidumping duty orders would be likely to lead to continuation or recurrence of dumping and of material injury to a domestic industry. On April 1, 1999, the Department of Commerce published notice that it was revoking the orders because no domestic interested party responded to its notice of initiation by the applicable deadline (64 FR 15728, April 1, 1999). Accordingly, pursuant to section 207.69 of the Commission's Rules of Practice and Procedure (19 CFR 207.69), the subject reviews are terminated.

EFFECTIVE DATE: April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

Authority: These reviews are being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.69 of the Commission's rules (19 CFR 207.69).

By order of the Commission.

Issued: April 1, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–8793 Filed 4–7–99; 8:45 am]

BILLING CODE 7020–DS–P

INTERNATIONAL TRADE COMMISSION

Invs. Nos. 701–TA–387–392 (Preliminary) and 731–TA–815–822 (Preliminary)

Certain Cut-to-Length Steel Plate From the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (Commission) determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from France, India, Indonesia, Italy, and Korea of certain cut-to-length steel plate, provided for in headings 7208, 7210, 7211, 7212, 7225, and 7226 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Governments of the respective countries. The Commission further determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of such imports from France, India, Indonesia, Italy, Japan, and Korea that are alleged to be sold in the United States at less than fair value (LTFV). Finally, pursuant to 19 U.S.C. 1677(24)(A), the Commission determines that the subject imports from the Czech Republic that are alleged to be sold at LTFV and the subject imports from Macedonia that are alleged to be subsidized and sold at LTFV are negligible.[2] The Commission's investigation with respect to the Czech Republic is thereby terminated pursuant to 19 U.S.C. 1673b(a)(1) and its investigation with respect to Macedonia are thereby terminated pursuant to 19

[1] The record is defined in sect. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Lynn M. Bragg finds that there is a potential that such imports from the Czech Republic will imminently account for more than three percent of the total import volume of all such merchandise, and determines that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of the subject merchandise from the Czech Republic that are alleged to be sold at LTFV.

U.S.C. 1671b(a)(1) and 19 U.S.C. 1673b(a)(1).

Commencement of Final Phase Investigations

Pursuant to section 207.18 of the Commission's rules, the Commission also gives notice of the commencement of the final phase of its investigations. The Commission will issue a final phase notice of scheduling which will be published in the **Federal Register** as provided in section 207.21 of the Commission's rules upon notice from the Department of Commerce (Commerce) of affirmative preliminary determinations in the investigations under sections 703(b) and 733(b) of the Act, or, if the preliminary determinations are negative, upon notice of affirmative final determinations in the investigations under sections 705(a) and 735(a) of the Act. Parties that filed entries of appearances in the preliminary phase of the investigations need not enter a separate appearance for the final phase of the investigations. Industrial users, and, if the merchandise under investigation is sold at the retail level, representative consumer organizations have the right to appear as parties in Commission antidumping and countervailing duty investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Background

On February 16, 1999, petitions were filed with the Commission and the Department of Commerce by Bethlehem Steel Corp. (Bethlehem, PA); U.S. Steel Group, a unit of USX Corp. (Pittsburgh, PA); Gulf States Steel, Inc. (Gadsden, AL); IPSCO Steel Inc. (Muscatine, IA); Tuscaloosa Steel Co.[3] (Tuscaloosa, AL); and the United Steelworkers of America (Pittsburgh, PA), alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports from France, India, Indonesia, Italy, Korea, and Macedonia of certain cut-to-length steel plate that are subsidized by the Governments of the respective countries, and imports from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia of certain cut-to-length steel plate that are sold in the United States at LTFV. Accordingly, effective February 16, 1999, the Commission instituted countervailing duty investigations Nos. 701–TA–387–392 (Preliminary) and antidumping investigations Nos. 731–TA–815–822 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 24, 1999 (64 FR 9174). The conference was held in Washington, DC, on March 9, 1999, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 2, 1999. the views of the Commission are contained in USITC Publication 3181 (April 1999), entitled Certain Cut-to-Length Steel Plate from the Czech Republic, France, India, Indonesia, Italy, Japan, Korea, and Macedonia (Investigations Nos. 701–TA–387–392 and 731–TA–815–822 (Preliminary)).

Issued: April 5, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–8794 Filed 4–7–99; 8:45 am]

BILLING CODE 7020–02–M

[3] Gulf States Steel, Inc., is not a petitioner with respect to the investigations on France. Tuscaloosa Steel Co. is not a petitioner with respect to the investigations on the Czech Republic, France, and Italy.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–055)]

NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act. Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life and Microgravity Sciences and Applications Advisory Committee, Commercial Advisory Subcommittee.

DATES: Wednesday, April 21, 1999, 8:00 a.m. to 5:00 p.m.

ADDRESSES: NASA Headquarters, Conference Room 8E38, 300 E Street, SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Candace Livingston, Code UP, National Aeronautics and Space Administration, Washington, DC 20546, 202/358–0697.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public to the seating capacity of the room. Advance notice of attendance to the Executive Secretary is requested. The agenda for the meeting will include the following topics:

—Report from the LMSAAC Meeting
—Report from the SSUAS Meeting
—Vision of NASA Commercial Act
—Briefing and discussion of status of ISS Commercialization Plan and Non-Government Organization (NGO) Concept
—Status on Consolidation of CSC's Selection Guidelines, Technology Education Outreach Policies for Protection of Intellectual Property
—Discussion of Performance Goals and Targets
—Discussion of CAS Charter and Committee Effectiveness

It is imperative that the meeting be held on this date to accommodate the Scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: March 30, 1999.

Matthew M. Crouch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 99–8787 Filed 4–7–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–056)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Rohm and Haas Company of Philadelphia, Pennsylvania, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,658,649, entitled ''Corrosion Resistant Coating,'' (NASA Case No. KSC–11600) which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to the Kennedy Space Center.

DATES: Responses to this notice must be received by June 7, 1999.

FOR FURTHER INFORMATON CONTACT: Ms. Beth A. Vrioni, John F. Kennedy Space

Center, Mail Code: MM–E, Kennedy Space Center, FL 32899, telephone (407) 867–6225.

Dated: March 30, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–8788 Filed 4–7–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (99–057)]

Notice of prospective patent license

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Spartan School of Aeronautics, of Tulsa, Oklahoma, has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 5,694,939, entitled ''Autogenic-Feedback Training Exercise Method and System,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Responses to this notice must be received by June 7, 1999.

FOR FURTHER INFORMATION CONTACT: Patent Counsel, Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035; telephone (650) 604–5104.

Dated: March 30, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–8789 Filed 4–7–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL TRANSPORTATION SAFETY BOARD

Public Hearing

The National Transportation Safety Board will convene a public hearing beginning at 9:00 a.m., local time on Wednesday, April 14, 1999, at the Georgetown Conference Center, 3800 Reservoir Road, N.W., Washington, D.C. 20057 concerning Truck/Bus Safety. For more information, contact Jeanmarie Poole, NTSB Office of Highway Safety. at (202) 314–6448 or Lauren Peduzzi, NTSB Office of Public Affairs at (202) 314–6100.

Dated: April 2, 1999.

Rhonda Underwood,

Federal Register Liaison Officer.

[FR Doc. 99–8680 Filed 4–7–99; 8:45 am]

BILLING CODE 7533–01–M

NUCLEAR REGUATORY COMMISSION

[Docket 70–7002]

Amendment to Certificate of Compliance GDP–2 for the U.S. Enrichment Corporation, Portsmouth Gaseous Diffusion Plant, Portsmouth, Ohio

The Director, Office of Nuclear Material Safety and Safeguards, has made a determination that the following amendment request is not significant in accordance with 10 CFR 76.45. In making that determination, the staff concluded that: (1) there is no change in the types or significant increase in the amounts of any effluents that may be released offsite; (2) there is no significant increase in individual or cumulative occupational radiation exposure; (3) there is no significant construction impact; (4) there is no significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents; (5) the proposed changes do not result in the possibility of a new or different kind of accident; (6) there is no significant reduction in any margin of safety; and (7) the proposed changes will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs. The basis for this determination for the amendment request is described below.

The NRC staff has reviewed the certificate amendment application and concluded that it provides reasonable assurance of adequate safety, safeguards, and security and compliance with NRC requirements. Therefore, the Director, Office of Nuclear Material Safety and Safeguards, is prepared to issue an amendment to the Certificate of Compliance for the Portsmouth Gaseous Diffusion Plant (PORTS). The staff has prepared a Compliance Evaluation Report which provides details of the staff's evaluation.

The NRC staff has determined that this amendment satisfies the criteria for a categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for this amendment.

The United States Enrichment Corporation (USEC) or any person whose interest may be affected may file a petition, not exceeding 30 pages, requesting review of the Director's Decision. The petition must be filed with the Commission not later than 15 days after publication of this **Federal Register** Notice. A petition for review of the Director's Decision shall set forth with particularity the interest of the petitioner and how that interest may be affected by the results of the decision. The petition should specifically explain the reasons why review of the Decision should be permitted with particular reference to the following factors: (1) the interest of the petitioner; (2) how that interest may be affected by the Decision, including the reasons why the petitioner should be permitted a review of the Decision; and (3) the petitioner's areas of concern about the activity that is the subject matter of the Decision. Any person described in this paragraph (USEC or any person who filed a petition) may file a response to any petition for review, not to exceed 30 pages, within 10 days after filing of the petition. If no petition is received within the designated 15-day period, the Director will issue the final amendment to the Certificate of Compliance without further delay. If a petition for review is received, the decision on the amendment application will become final in 60 days, unless the Commission grants the petition for review or otherwise acts within 60 days after publication of this **Federal Register** Notice.

A petition for review must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, by the above date.

Since the application for amendment and the Commission's Compliance Evaluation Report contain proprietary information, they are not subject to public disclosure per 10 CFR 2.790.

Date of amendment request: August 7, 1998, as revised on February 24, 1999.

Brief description of amendment: USEC submitted a certificate amendment request for PORTS to reduce the minimum number of measurements that are required to determine the enriched uranium content of UF_6 cylinder receipts from Russian facilities for whom a valid historical database has been established so as to provide 99.9 percent confidence that a statistically significant shift in the mean uranium concentration will be detected. PORTS typically receives, from three blending facilities in Russia, several hundred 2.5-ton UF_6 cylinders per year

at enrichments less than 5 weight percent U–235. Currently, each cylinder's liquid sample obtained in Russia or at PORTS is required to be analyzed at PORTS to confirm the uranium concentration and enrichment indicated by the shipper. The proposed amendment would allow analysis of UF_6 samples at PORTS at a lower rate which provides 99.9 percent confidence that a statistically significant shift in the mean uranium concentration will be detected for each Russian supplier with a valid historical database. It is noted that the proposed amendment only lowers the analytical measurement rate for Russian-origin UF_6 cylinders. The current 100 percent liquid sampling requirement and the 100 percent nondestructive analysis requirement will not be altered by this amendment.

Basis for Finding of No Significance

1. The proposed amendment will not result in a change in the types or significant increase in the amounts of any effluents that may be released offsite.

This amendment significantly reduces the destructive sample analytical requirement for 2.5-ton UF_6 cylinders obtained from three Russian facilities which have established historical bases to provide 99.9 percent confidence that a statistically significant shift in uranium concentration will be detected. As such, it would likely result in a reduction in the analytical handling of UF_6 samples. This would reduce the likelihood of any accidental releases of UF_6 during analytical operations. Therefore, this amendment will not result in a significant change in the types or significant increase in the amounts of any effluents that may be released offsite.

2. The proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposure.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not result in a significant increase in individual or cumulative occupational radiation exposures.

3. The proposed amendment will not result in a significant construction impact.

The proposed amendment does not involve any construction, therefore, there will be no construction impacts.

4. The proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not result in a significant increase in the potential for, or radiological or chemical consequences from, previously analyzed accidents.

5. The proposed amendment will not result in the possibility of a new or different kind of accident.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not result in new or different kinds of accidents.

6. The proposed amendment will not result in a significant reduction in any margin of safety.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not result in a significant reduction in any margin of safety.

7. The proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety, safeguards, or security programs.

For the reasons provided in the assessment of criterion 1, the proposed amendment will not result in an overall decrease in the effectiveness of the plant's safety program.

The NRC staff has determined that the sampling and measurement plan as described in USEC's proposed amendment would provide an adequate systems performance capability for determining the uranium content of UF_6 cylinder receipts at PORTS from the three current Russian suppliers. The systems capability that would be provided by the proposed sampling rates, which would detect with a probability of over 0.99, a mean shift in concentration as small as one standard deviation. The resulting detection level would be of the same magnitude as the uncertainty associated with the PORTS analytical measurement system if the sampling plan is applied in a reasonably random way to assure the representativeness of data. Moreover, the proposed statistical approach is consistent with current commitments of other NRC licensees who receive low-enriched UF_6 cylinders of either domestic or foreign origin. It should be noted that this amendment only applies to those shippers of Russian material for whom a valid database has been established so as to provide 99.9 percent confidence that a statistically significant shift in the mean uranium concentration will be detected. Therefore, the NRC staff concludes that the proposed amendment will not result in an overall decrease in the effectiveness of the plant's safeguards program.

The staff has not identified any security related implications from the proposed amendment. Therefore, the proposed amendment will not result in an overall decrease in the effectiveness of the plant's security program.

Effective date: The amendment to GDP–2 will become effective immediately after issuance by NRC.

Certificate of Compliance No. GDP–2: Amendment will revise the PORTS Fundamental Nuclear Materials Control Plan and the PORTS Transportation Security Plan.

Local Public Document Room location: Portsmouth Public Library, 1220 Gallia Street, Portsmouth, Ohio 45662.

Dated at Rockville, Maryland, this 31st day of March 1999.

For the Nuclear Regulatory Commission.

Carl J. Paperiello,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–8771 Filed 4–7–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Southern Nuclear Operating Company, Inc., et al. Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. NPF–2 and NPF–8, issued to the Southern Nuclear Operating Company, Inc., et al. (the licensee) for operation of the Joseph M. Farley Nuclear Plant, Units 1 and 2, located in Houston County, Alabama.

The proposed amendment would modify Technical Specification 3/4.4.9, ''Specific Activity,'' and the associated bases to increase the limit associated with dose equivalent iodine-131. The steady-state dose equivalent iodine-131 limit would be increased from 0.15microCurie/gram to 0.3 microCurie/gram and the transient limit for 80 percent to 100 percent power provided by Technical Specification Figure 3.4–1 will increase 9 microCurie/gram to 18 microCurie/gram with a corresponding increase in the 0 percent to 80 percent power limits.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the

amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Operation of Farley Units 1 and 2 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The increase in the dose equivalent iodine limits, both steady-state and transient, will not increase the probability of any accident evaluated since no physical changes to the plant are being made. The consequences of any accident previously evaluated will not be significantly increased since the doses remain a small fraction of the regulatory limit.

2. The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The increase in the dose equivalent iodine limits, both steady-state and transient, will not create the possibility of a new or different kind of accident from any accident previously evaluated since no physical changes to the plant are being made. The accidents of concern continue to be those that have previously been analyzed.

3. The proposed license amendment does not involve a significant reduction in a margin of safety.

The calculated potential radiological consequences from the main steam line break accident (the bounding event) remain within the regulatory exposure guidelines and have not changed significantly. Increase of the dose equivalent iodine limit along with a corresponding decrease of allowable steam line break primary-to-secondary steam generator leakage provides a compensating offsite dose effect. Although the calculated dose increases slightly, the dose remains within a small fraction of the regulatory limit (30.0 REM [roentgen equivalent man] at the LPZ [low-population zone] boundary). Consequently, there is no significant reduction in any margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By May 10, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law

or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to M. Stanford Blanton, Exq., Balch and Bingham, Post Office Box 306, 1710 Sixth Avenue North, Birmingham, Alabama, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated April 2, 1999, 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 Houston-Love Memorial Library, 212 W. Burdeshaw Street, Post Office Box 1369, Dothan, Alabama.

Dated at Rockville, Maryland, this 5th day of April 1999.

For the Nuclear Regulatory Commission.

Jacob I. Zimmerman,

Project Manager, Section 1, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–8770 Filed 4–7–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–482]

Wolf Creek Nuclear Operating Corporation Wolf Creek Generating Station; Notice of Issuance of Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (Commission) has issued Amendment No. 123 to Facility Operating License No. NPF–42 issued to Wolf Creek Nuclear Operating Corporation (the licensee) for operation of the Wolf Creek Generating Station (WCGS) located in Coffey County, Kansas.

The amendment is effective as of the date of issuance and shall be implemented by December 31, 1999. The implementation of the amendment includes the two license conditions which are being added to Appendix D of the license as part of the amendment.

The amendment replaces, in its entirety, the current Technical Specifications (TS) with a set of improved TS based on NUREG–1431, ''Standard Technical Specifications, Westinghouse Plants,'' Revision 1, dated April 1995, including all approved changes to the standard TS; the Commission's Final Policy Statement, ''NRC Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132); and 10 CFR 50.36, ''Technical Specifications,'' as amended July 19, 1995 (60 FR 36953). In addition, the amendment adds two license conditions to Appendix D of the operating license that require (1) the relocation of current TS requirements into licensee-controlled documents, and (2) the first performance of new and revised surveillance requirements for the improved TS to be related to the implementation date for the improved TS. The implementation of the amendment and the license conditions will be completed by December 31, 1999, as stated in the amendment.

The application for the amendment, as supplemented, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on October 5, 1998 (63 FR 53471), February 26, 1999, (64 FR 9546) and supplemented for an additional beyond-scope issue in a notice published in the **Federal Register** on March 1, 1999 (64 FR 10028). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and has determined not to prepare an environmental impact statement related to the action to convert the current TS to the improved TS. Based on the Environmental Assessment, the Commission has concluded that the issuance of the amendment will not have a significant effect on the quality of the human environment beyond that described in the Final Environmental Statement (FES) related to the operation of WCGS (NUREG–0878 dated June 1982). The Environmental Assessment was published in the **Federal Register** on March 30, 1999 (64 FR 15186).

For further details with respect to the amendment see (1) the application for amendment dated May 15, 1997, as supplemented by letters in 1998 dated June 30, August 5, August 28, September 24, October 16, October 23, November 24, December 2, December 17, and December 21, and letters in 1999 dated February 4, March 5 (3 letters), March 25, and March 26, and (2) the Commission's related Safety Evaluation and Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW, Washington, DC, and at the local public document rooms located at the Emporia State University, Wiliam Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801, and Washburn University School of Law Library, Topeka, Kansas 66621.

Dated at Rockville, Maryland, this 31st day of March 1999.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV–1, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–8772 Filed 4–7–99; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Financial Disclosure Statement.

(2) *Form(s) submitted:* G–423.

(3) *OMB Number:* 3220–0127.

(4) *Expiration date of current OMB clearance:* 6/30/1999.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Individuals or households.

(7) *Estimated annual number of respondents:* 1,200.

(8) *Total annual responses:* 1,200.

(9) *Total annual reporting hours:* 1,700.

(10) *Collection description:* Under the Railroad Retirement and the Railroad Unemployment Insurance Acts, the Railroad Retirement Board has authority to secure from an overpaid beneficiary a statement of the individual's assets and liabilities if waiver of the overpayment is requested.

FOR FURTHER INFORMATION CONTACT: Copies of the form and supporting documents can be obtained from Check Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Laurie Schack (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 99–8675 Filed 4–7–99; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension: Rule 17a–11; SEC File No. 270–94.

OMB Control No. 3235–0085.

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'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 17a–11 (17 CFR 240.17a–11) requires broker-dealers to give notice when certain specified events occur. Specifically, the rule requires a broker-dealer to give notice of a net capital deficiency on the same day that the net capital deficiency is discovered or a broker-dealer is informed by its designated examining authority or the Commission that it is, or has been, in violation of its minimum requirement under Rule 15c3–1 (17 CFR 240.15c3–1) of the Securities Exchange Act of 1934 (''Exchange Act'').

Rule 17a–11 also requires a broker-dealer to send notice promptly (within 24 hours) after the broker-dealer's aggregate indebtedness is in excess of 1,200 percent of its net capital, its net capital is less than 5 percent of aggregate debit items, or its total net capital is less than 120 percent of its required minimum net capital. In addition, a broker-dealer must give notice if it fails to make and keep current books and records required by Rule 17a–3 (17 CFR 240.17a–3), if any material inadequacy is discovered as defined in Rule 17a–5(g) (17 CFR 240.17a–5(g)), and if backtesting exceptions are identified pursuant to Appendix F of Rule 15c3–1 (17 CFR 240.15c3–1f) for a broker-dealer registered as an OTC derivatives dealer.

The notice required by the rule alerts the Commission, self-regulatory organizations (''SROs''), and the Commodity Futures Trading Commission (''CFTC'') if the broker-dealer is registered as a futures commission merchant, which have oversight responsibility over broker-dealers, to those firms having financial or operational problems.

Because broker-dealers are required to file pursuant to Rule 17a–11 only when certain specified events occur, it is difficult to develop a meaningful figure for the cost of compliance with Rule 17a–11. The Commission receives approximately 656 notices under this rule each year from approximately 362 broker-dealers. Each broker-dealer will spend approximately one hour per year complying with Rule 17a–11. Accordingly, the aggregate burden is estimated to be approximately 656 hours. With respect to those broker-dealers that must give notice under Rule 17a–11, the cost is approximately $10 per response for a total annual expense for all broker-dealers of $6,560.

Written 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 collection of information: (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549.

Dated: March 30, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8684 Filed 4–7–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41238; File No. SR–CSE–99–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by The Cincinnati Stock Exchange, Inc., Relating to Transaction and Book Fees

March 31, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on March 1, 1999, the Cincinnati Stock Exchange,

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

Inc. (''CSE'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CSE. 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 CSE proposes to amend its schedule of books and transaction fees. The text of the proposed rule change is as follows (additions are italicized; deletions are in brackets):

Rule 11.10 National Securities Trading System Fees

A. Trading Fees

(a)–(i) No Change.

(j) Tape B Transactions. The CSE will not impose a transaction fee on Consolidated Tape B securities. In addition, Members will receive a *50 per cent* pro rata transaction credit of Tape B revenue.[3] [based on the following schedule:

Average Quarterly Exchange Tape B Transaction	Percentage of Tape B Revenue Credited
1–2.99%	10
3–4.99%	25
5–6.99%	30
7% and greater	40

(k) DD Issue/Book Fees. Designated Dealers will be charged a monthly book fee based on the following incremental schedule:

Number of Issues	Fee Per Issue
0 to *150* [500]	*$20.00* [25.00]
[500] *151* to *300* [750]	10.00
[751] *301* and higher	5.00

[The DD Issue/Book Fee shall be $5.00 per issue where there is only one Designated Dealer in that issue.]

(l)–(n) No Change.

B. Membership Fees.

No Change.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CSE has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The CSE is modifying its book fees and is implementing an improvement to its CTA Network B (''Tape B'') transaction credit in order to create additional incentives to trade on the Exchange. These actions are consistent with the CSE's ongoing efforts to remain the low-cost provider of exchange services in the National Market System. Book fees are charged to Designated Dealers for each issue in which they are registered as a specialist. The fee for the first tier of issues is reduced from $25 per issue to $20 per issue, and the upper limit of the first tier is reduced from 500 issues to 150 issues. Although the fee per issue for the second and third tiers will remain the same, the number of issues covered by the second tier is now 151 to 300, and the number of issues covered by the third tier is now 301 and higher. Finally, the limitation of the fee per issue to $5 for issues in which there is only Designated Dealer is deleted. Under the revised Tape B program, member firms will receive fifty percent (50%) of all Tape B revenue on a pro rata without regard to market share prerequisites.

2. Statutory Basis

The CSE believes the proposed rule change is consistent with section 6(b) of the Act,[4] in general, and furthers the objectives of section 6(b)(5),[5] 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 a national market system, and, in general, to protect investors and the public interest. In addition, the Exchange believes that the proposed rule change is consistent with section 6(b)(4) of the Act[6] in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among Exchange members by crediting members on a pro rata basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CSE does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited in connection with the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[7] and subparagraph (f) of Rule 19b–4 thereunder[8] because it establishes or changes a due, fee, or other charge. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.[9] Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications, relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filings will also be available for inspection and copying at the principal office of the CSE. All submissions should refer to File No. SR–CSE–99–03 and should be submitted by April 29, 1999.

[3] Telephone conversation between David Colker, President and Chief Operating Officer, CSE, and Daniel M. Gray, Special Counsel, Division of Market Regulation, Commission, on March 31, 1999.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78f(b)(4).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

[9] In reviewing the proposed rule change, the Commission considered its potential impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8682 Filed 4–7–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41234; File No. SR–NYSE–99–01]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendment No. 1 by the New York Stock Exchange, Inc. Relating to a Pilot for Adjusted Stabilization Measure of Specialist Performance

March 31, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 11, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') a proposed rule change regarding ''adjusted stabilization'' as a measure of specialist performance. The Exchange filed an amendment to its proposal on March 25, 1999.[3] The proposed rule change, as amended, is described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change and Amendment No. 1 from interested persons and to approve the proposal, as amended, until June 30, 2000, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of a pilot program which would utilize a new measure of specialist performance that the NYSE refers to as an ''adjusted stabilization'' rate.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

1. *Purpose*

On November 21, 1997, the Commission approved a rule proposal to add, on a one-year pilot basis, a new measure of specialist performance that the NYSE refers to as an ''adjusted stabilization'' rate.[4] The pilot expired on November 21, 1998. The current rule filing clarifies the scope of the pilot and proposes to renew it through June 30, 2000.

The Exchange generally expects a specialist to stabilize stock price movements in the stocks traded by the specialist unit by buying and selling from its own account against the prevailing trend of the market. The rate at which the specialist performs such stabilizing function (*i.e.*, stabilization rate) is the percentage of shares purchased by specialists on minus and zero-minus ticks and the percentage of shares sold by specialists on plus and zero-plus ticks. This measurement focuses on the specialist's obligation as a dealer, which holds that a specialist must buy or sell securities as principal when such transactions are necessary to minimize an actual or reasonably anticipated short-term imbalance between supply and demand in the market.[5]

Under the proposal, the Exchange would adopt a new measure of specialist performance which it refers to as ''adjusted stabilization.'' Adjusted stabilization would measure a specialist's proprietary purchases on zero-plus ticks on the current bid (provided the current bid is below the offer at the time of the immediately preceding trade) and proprietary sales on zero-minus tickets on the current offer (provided the current offer is above the bid at the time of the immediately preceding trade).[6] These trades would be grouped with stabilizing trades to determine the adjusted stabilization rate.

The Exchange believes that ''adjusted stabilization'' could be a useful measure of specialist performance in that it might reflect depth added to the market by specialists. In the example provided by the Exchange in Amendment No. 1,[7] the specialist's sale has added depth to the current market by allowing Broker B to complete his order at a single price, and the trade was executed at a price set by the market, not by the specialist.

Programming to initiate collection and storage of the data necessary to calculate adjusted stabilization percentages was completed in mid-1998. The Exchange then began to accumulate data to produce percentages for ''rolling'' three-month performance review periods. A separate programming effort was completed in November 1998 to revise: (1) the monthly report to the Allocation Committee (covering the three most recent months) that would provide each specialist unit's adjusted stabilization percentage, and (2) the monthly report to each specialist unit (covering the most recent month) that provides, for each stock and the unit overall, its dealer participation percentage, stabilization percentage, and the new adjusted stabilization percentage. To date, the Exchange has not released adjusted stabilization information collected during the initial pilot to the specialists or the Allocation committee. However, the Exchange will begin including each specialist unit's adjusted stabilization percentage in the monthly reports as soon as practicable after approval of the new pilot.[8]

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[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Donald Siemer, Director, Market Surveillance, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated March 25, 1999 (''Amendment No. 1''). Amendment No. 1 provides further details regarding use of the specialist performance measure under the Exchange's Allocation Policy and provides an example of an adjusted stabilization transaction.

[4] *See* Securities Exchange Act Release No. 39344 (November 21, 1997), 62 FR 63592 (December 1, 1997).

[5] NYSE Rule 104.10(3) states, in pertinent part, ''[t]ransactions on the Exchange for his own account affected by a member acting as specialist must constitute a course of dealings reasonably calculated to contribute to the maintenance of price continuity with reasonable depth, and to the minimizing of the effects of temporary disparity between supply and demand, immediate or reasonably to be anticipated.''

[6] In Amendment No. 1, the Exchange provided the following example of an adjusted stabilization transaction: The market in XYZ is 25 4/16–25 8/16. The last sale is 25 6/16 on minus tick. Broker A enters the crowd and offers to sell 1,000 shares at 25 6/16. The quotation becomes 25 4/16–25 6/16. Broker B then enters the crowd with an order to buy 2,500 shares at the market. Broker A sells the 1,000 shares at 25 6/16 to Broker B. The specialist, whose dealer position is long, then fills the remainder of Broker B's order by selling, 1,500 shares at 25 6/16. Thus, the specialist's transaction would qualify as an adjusted stabilization transaction because the specialist is selling on a zero-minus tick on the current offer (*i.e.* 25 6/16) and that offer is above the bid at the time of the immediately preceding trade (*i.e.*, 25 4/16).

[7] *See* note 6.

[8] Telephone conversation between Donald Siemer, Director, Market Surveillance, NYSE, and

Under the new pilot, the Allocation Committee will receive information on each specialist's stabilization and adjusted stabilization percentages, along with other objective performance measures under the Allocation Policy, such as capital utilization. The Exchange expects that this data will assist the Committee in assessing the value added by specialists to the depth and liquidity of stocks that they currently trade. The Committee will use this information in making new stock allocation decisions.[9]

The new pilot would run through June 30, 2000, which would allow the Exchange to gain experience with this new performance measure. The Exchange will submit to the Commission a proposed rule change, no later than three months prior to the expiration of the pilot, either to continue, modify or terminate the pilot, or request permanent approval of the proposal.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)[10] of the Act, in general, and furthers the objectives of Section 6(b)(5),[11] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that 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

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–99–01 and should be submitted by April 29, 1999.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

The Commission finds, for the reasons set forth below, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, with the requirements of Section 6(b)[12] of the Act. Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[13] requirement that the rules of an exchange be designed to facilitate transaction in securities.[14] Further, the Commission believes that the proposal is consistent with Section 11(b)[15] of the Act and Rule 11b–1[16] under the Act, which allows securities exchanges to permit exchange members to register as specialists, provided that the exchange requires the specialist to assist in maintaining a fair and orderly market.

The Commission believes that, under certain circumstances, ''adjusted stabilization'' transactions could reflect depth and liquidity added to the market by specialists. Thus, the Commission believes that ''adjusted stabilization'' could be a relevant measure of specialist performance because it might help the Exchange determine whether a specialist is assisting in maintaining a fair and orderly market.[17]

By providing for the performance measure on a pilot basis through June 30, 2000, the Exchange and the Commission will have the opportunity to study the effects of the use of the measure on the NYSE's allocation process. It is unclear to the Commission, at this point, whether adjusted stabilization transactions will, in practice, promote the maintenance of a fair and orderly market (*e.g.*, by adding depth or liquidity) in the stocks the specialist's unit trades. Accordingly, the Commission has requested the Exchange to report on the following matters when the Exchange proposes to renew or modify the proposal or when it seeks permanent approval for the pilot: (1) the impact ''adjusted stabilization'' transactions have had on the depth and liquidity of the stocks at issue; (2) the number of allocations reviewed by the Committee and the number of applicants for each allocation; (3) the monthly adjusted stabilization percentage as presented to the Allocation Committee for each allocation applicant; and (4) the Committee's allocation decisions and the effect, if any, an applicant's ''adjusted stabilization'' rate had on the allocation decision.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing in the **Federal Register**. The Exchange will be able to continue to accumulate relevant data and provide such information to the specialists and the Allocation Committee for their use without further delay. The Commission also notes that the previous pilot was noticed for the full statutory period and the Commission received no comments on the proposal. Accordingly, the Commission does not believe that the current filing raises any regulatory issues not raised by the previous filing.

It is therefore ordered, pursuant to Section 19(b)(2)[18] of the Act, that the proposed rule change (SR–NYSE–99–01), as amended, is approved as a pilot through June 30, 2000, on an accelerated basis.

Anitra Cassas, Attorney, Division, Commission, on January 22, 1999.

[9] *See* Amendment No. 1.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] In approving this rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78k(b).

[16] 17 CFR 240.11b–1.

[17] The Commission notes that ''adjusted stabilization'' transactions would not constitute ''stabilizing'' as the Commission has defined that term under the Act. In particular, Regulation M under the Act defines ''stabilizing'' as ''the placing of any bid, or the effecting of any purchase, for the purpose of pegging, fixing, or maintaining the price of a security.'' 17 CFR 242.100(b).

[18] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–8683 Filed 4–7–99; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 3022]

Delegation of Authority 229

By virtue of the authority vested in me by the laws of the United States, including the Foreign Assistance Act of 1961, the Arms Export Control Act, and the State Department Basic Authorities Act, and relevant delegations of authority, including the memorandum delegation signed by the President on November 4, 1997, and to the extent permitted by the law, I hereby delegate—

(a) all authorities vested in the Secretary of State (including all authorities delegated by the President to the Secretary of State by an act, order, determination, delegation of authority, regulation or executive order heretofore or hereinafter enacted or issued) that have been or may be delegated or redelegated to the Under Secretary of State for Arms Control and International Security—

(1) to John Holum for such period as he serves in the Department of State, except that, to the extent that such an authority derives from a delegation of authority from the President, this paragraph shall apply only to the extent that there is a statutory basis for delegating an authority to an individual with respect to whom the Senate has not provided advice and consent; and

(2) to the Assistant Secretary of State for Political-Military Affairs, for such functions as are within his area of responsibility, to the extent that such an authority derives from a delegation of authority from the President and the Office of the Legal Adviser has not identified a statutory basis for delegating the authority to an individual with respect to whom the Senate has not provided advice and consent; and

(b) to the Under Secretary of State for Arms Control and International Security all authorities that, before the effective date described in section 1201 of the Foreign Affairs Agencies consolidation Act of 1998 (the ''Act'') were vested in the Director of the United States Arms Control and Disarmament Agency and that, pursuant to amendments made by the Act, are now vested in the Secretary of State.

References in any previous delegations of authority to the Under Secretary for Arms Control and International Security Affairs shall hereinafter be deemed to be references to the Under Secretary for Arms Control and International Security except as specifically provided to the contrary.

This delegation of authority shall be without prejudice to the authority of any person to exercise any authority pursuant to any other applicable delegation of authority. Paragraph (a) of this delegation of authority shall cease to be effective upon the appointment by the President, with the advice and consent of the Senate, of an individual to the position of Under Secretary of State for Arms Control and International Security. The Secretary or the Deputy Secretary may at any time exercise any of the functions described above.

This delegation shall be published in the **Federal Register**.

Dated: March 30, 1999.

Madeleine Albright,

Secretary of State.

[FR Doc. 99–8644 Filed 4–7–99; 8:45 am]

BILLING CODE 4710–10–M

[19] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Status of Former Yugoslav Republic of Macedonia Under Section 701(b) of the Tariff Act of 1930, as Amended

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: Under Section 1–103(b) of Executive Order 12188 of January 2, 1980, the functions of the President under section 2(b) of the Trade Agreements Act of 1979 and section 701(b) of the Tariff Act of 1930, as amended (''the Act''), are delegated to the United States Trade Representative (''USTR'') who shall exercise such authority with the advice of the Trade Policy Committee. In accordance with these provisions, the USTR has confirmed that the former Yugoslav Republic of Macedonia (''Macedonia'') is a ''Subsidies Agreement country'' for purposes of Title VII of the Act.

The text of the USTR's determination is contained in annex I to this notice.

FOR FURTHER INFORMATION CONTACT: William D. Hunter, (202) 395–3582, Office of the General Counsel, Office of the United States Trade Representative, 600 17th Street NW, Washington, DC 20506.

Dated: April 1, 1999.

Susan G. Esserman,

General Counsel.

Former Yugoslav Republic of Macedonia Confirmation of Status Under Section 701(b) of the Tariff Act of 1930, as Amended

Under Section 1–103(b) of Executive Order 12188 of January 2, 1980, the functions of the President under section 2(b) of the Trade Agreements Act of 1979 and section 701(b) of the Tariff Act of 1930, as amended (''the Act''), are delegated to the United States Trade Representative who shall exercise such authority with the advice of the Trade Policy Committee.

I, Charlene Barshefsky, United States Trade Representative, in conformance with the provisions of section 2(b) of the Trade Agreements Act of 1979, section 701(b) of the Act, and section 1–103(b) of Executive Order 12188, do hereby determine that:

(1) There is an agreement in effect between the United States and the Former Yugoslav Republic of Macedonia which: (i) was in force on the date of the enactment of the Uruguay Round Agreements Act, and (ii) requires unconditional most-favored-nation treatment with respect to articles imported into the United States (Treaty of Commerce Between the United States of America and Serbia, October 3, 1946, 61 Stat. 2451); and

(2) The agreement does not expressly permit: (i) actions required or permitted by the GATT 1947 or GATT 1994, as defined in section 2(1) of the Uruguay Round Agreements Act, or required by the Congress, or (ii) nondiscriminatory prohibitions or restrictions on importation which are designed to prevent deceptive or unfair practices.

Therefore, in accordance with section 701(b)(3) of the Act, I hereby confirm that the Former Yugoslav Republic of Macedonia is a ''Subsidies Agreement country'' for purposes of Title VII of the Act.

April 1, 1999.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 99–8674 Filed 4–7–99; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. 29088]

Airport Privatization Pilot Program

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Receipt of Final Application of Stewart International Airport, Newburgh, New York; Request for Comments.

SUMMARY: The Federal Aviation Administration (FAA) is seeking information and comments from interested parties on the final application by the State of New York for participation of Stewart International Airport (SWF) in the airport privatization pilot program. The final application is accepted for review.

49 U.S.C. Section 47134 establishes an airport privatization pilot program and authorizes the Department of Transportation to grant exemptions from certain Federal statutory and regulatory requirements for up to five airport privatization projects. The application procedures require the FAA to publish a notice of receipt of the final application in the **Federal Register** and accept public comment on the final application for a period of 60 days.

DATES: Comments must be received by June 7, 1999. Comments that are received after that date will be considered only to the extent possible.

ADDRESSES: The SWF final application is available for public review in the Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 29088, 800 Independence Avenue, SW., Washington, DC 20591. The New York State Department of Transportation (NYSDOT), the airport sponsor, has also made a copy of the application available at the following locations:

Town Clerk's Office, Town of New Windsor, Town Hall, 555 Union Avenue, New Windsor, NY 12553.
Town Clerk's Office, Town of Newburgh, Town Hall, 20–26 Union Avenue, Newburgh, NY 12550.
Newburgh Free Library, 124 Grand Street, City of Newburgh, Newburgh, NY 12550.
Orange County Planning Department, 124 Main Street, Goshen, NY 10924.
Airport Director's Office, Airport Administration Building, 1035 First Street, Stewart International Airport, New Windsor, NY 12553.

Comments on the SWF final application must be delivered or mailed, in quadruplicate, to: the Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–200), Docket No. 29088, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked ''Docket No. 29088''. Commenters wishing the FAA to acknowledge receipt of their comments must include a preaddressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 29088.'' The postcard will be date stamped and mailed to the commenter. Comments on this Notice may be delivered or examined in room 915G on weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Kevin C. Willis, Compliance Specialist (AAS–400), (202–267–8741) Airport Compliance Division, Office of Airport Safety and Standards, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591.

SUPPLEMENTARY INFORMATION: Section 149 of the Federal Aviation Administration Authorization Act of 1996, Pub. L. 104–264 (October 9, 1996) (1996 Reauthorization Act), added a new § 47134 to Title 49 of the U.S. Code. Section 47134 authorizes the Secretary of Transportation, and through delegation, the FAA Administrator, to exempt a sponsor of a public use airport that has received Federal assistance from certain Federal requirements in connection with the privatization of the airport by sale or lease to a private party. Specifically, the Administrator may exempt the sponsor from all or part of the requirements to use airport revenues for airport-related purposes (upon approval of 65 percent of the air carriers serving the airport and having 65 percent of the landed weight), to pay back a portion of Federal grants upon the sale of an airport, and to return airport property deeded by the Federal Government upon transfer of the airport. The Administrator is also authorized to exempt the private purchaser or lessee from the requirement to use all airport revenues for airport-related purposes, to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport (No air carrier approval is necessary for the latter exemption.)

On September 16, 1997, the FAA issued a notice of procedures to be used in applications for exemption under Airport Privatization Pilot Program (62 FR 48693). The notice of procedures and its public comments are available for review in FAA Rules Docket No. 28895. A request for participation in the Pilot program may be initiated by the filing of either a preliminary or final application for exemption with the FAA.

On December 16, 1997, the FAA issued a notice accepting for review, the Stewart International Airport preliminary application (62 FR 65845). This action permitted NYSDOT to select a private operator, negotiate an agreement and submit a final application to the FAA for exemption. The filing date of the NYSDOT preliminary application is October 23, 1997, the date the FAA received the preliminary application. On January 10, 1999, New York State Department of Transportation filed a final application.

The proceeds from the sale of lease of airport property are considered airport revenue and must be used in accordance with the requirements of 49 U.S.C. 47107(b) and 47133. In its final application, the State of New York has elected not to request an exemption under 49 U.S.C. 47134(b)(1) from 49 U.S.C. 47107(b) and 47133, on the basis that the State will use the proceeds from the lease of Stewart International Airport for purposes that are permitted under 47107(b) and 47133. In the application, the State of New York indicates that the initial lease payment will total $35 million. The State proposes to use $24.4 million of that amount to repay the State for funds contributed for the capital and operating costs of Stewart International Airport and Republic Airport during the past six years, in accordance with 49 U.S.C. 47107(I)(5). With regard to the use of the $10.5 million balance of the initial payment, the State of New York has included information in the application describing how this amount will be used for airport purposes in accordance with the statutory requirements and grant assurances concerning use of airport revenue. The FAA will conduct an appropriate review of the proposed uses of airport revenue separate and apart from its review of the State's application under the pilot program. The approval or disapproval of the pending § 47134 application is not conditioned upon the FAA's approval or disapproval of the State's request for reimbursement under § 47107(I)(5), because the funds must be used for a purpose consistent with § 47107(b) in any event.

On February 16, 1999, in an effort to clarify certain parts of the application, FAA staff requested responses to five questions from the State of New York and 12 questions from the private operator. Ten of the questions posed to the private operator required it to utilize confidential business or financial information in order to respond. In accordance with the airport privatization pilot program application procedures, 62 FR 48693, 48706 (September 16, 1997), the private operator has requested confidential treatment of this information. As a result, the responses to these 10 questions will not be available for public comment. Copies of the 17

questions and the seven responses available for public view and comment are included in Attachment 15 of the sponsor's application for public review.

The FAA has determined that the application is substantially complete. As part of its review of the SWF final application, the FAA will consider all comments and information submitted by interested parties during the 60-day comment period for this notice.

Issued in Washington, DC, on April 2, 1999.

David L. Bennett,

Director, Airport Safety and Standards.

[FR Doc. 99–8752 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

The Federal Aviation Administration (FAA) Satellite Operational Implementation Team (SOIT) Hosted Forum on the Capabilities of the Global Positioning System (GPS)/Wide Area Augmentation System (WAAS) and Local Area Augmentation System (LAAS)

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

NAME: FAA SOIT Forum on GPS/WAAS/LAAS Capabilities.

TIME AND DATE: 9:00 a.m.–5:00 p.m., May 17–18, 1999.

PLACE: The Holiday Inn Fair Oaks Hotel, 11787 Lee Jackson Memorial Highway, Fairfax, Virginia 22033.

STATUS: Open to the aviation industry with attendance limited to space available.

PURPOSE: The FAA SOIT will be hosting a public forum to discuss the FAA's GPS approvals and WAAS/LAAS operational implementation plans. This meeting will be held in conjunction with a regularly scheduled meeting of the FAA SOIT and in response to aviation industry requests to the FAA Administrator. Formal presentations by the FAA will be followed by a question and answer session. Those planning to attend are invited to submit proposed discussion topics.

REGISTRATION: Participants are requested to register their intent to attend this meeting by May 3, 1999. Names, affiliations, telephone and facsimile numbers should be sent to the point of contact listed below.

POINT OF CONTACT: Registration and submission of suggested discussion topics may be made to Mr. Steven Albers, phone (202) 267–7301, fax (202) 267–5086, or email at steven.CTR.albers@faa.gov.

Issued in Washington, D.C. on March 22, 1999.

Hank Cabler,

SOIT Co-Chairman.

[FR Doc. 99–8751 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application 99–03–C–00–ALO To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Waterloo Municipal Airport, Waterloo, IA

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before May 10, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Kim Bakker, Assistant Director of Aviation, Waterloo Municipal Airport, at the following address: Waterloo Municipal Airport, 2790 Airport Boulevard, Waterloo, Iowa 50703.

Air Carriers and foreign air carriers may submit copies of written comments previously provided to the City of Waterloo, Waterloo Municipal Airport, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Lorna Sandridge, PFC Program Manager, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426–4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Waterloo Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On March 24, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Waterloo, Iowa, was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than June 23, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: September, 1999.

Proposed charge expiration date: February, 2004.

Total estimated PFC revenue: $763,830.

Brief description of proposed project(s): Rehabilitate East General Aviation Apron; Terminal Building Modernization—Conceptual Plan; Terminal Building Modernization—Architectural Design; Taxiway 'D' Reconstruction; Terminal Building Modernization—Construction.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Waterloo Municipal Airport.

Issued in Kansas City, Missouri on March 24, 1999.

George A. Hendon,

Manager, Airports Division, Central Region.

[FR Doc. 99–8750 Filed 4–7–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Federal Transit Administration

Transportation Equity Act for the 21st Century; Implementation Information for the Intelligent Transportation Systems (ITS) Deployment Program

AGENCIES: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), DOT.

ACTION: Notice.

SUMMARY: This document publishes implementation information on the

Intelligent Transportation Systems (ITS) Deployment Program described in sections 5208 and 5209 of the Transportation Equity Act for the 21st Century (TEA–21), enacted on June 9, 1998. The notice identifies the criteria for the two components of the ITS Deployment Program, namely the ITS Integration Program and the Commercial Vehicle Intelligent Transportation Infrastructure Deployment Program. Implementation information on this program was issued to the FHWA Division and the FTA Regional Offices on January 4, 1999, and is contained in this notice.

FOR FURTHER INFORMATION CONTACT: For the ITS Integration component of the ITS Deployment Program: Ms. Toni Wilbur, FHWA Office of Travel Management, HOTM, (202) 366–2199; or Mr. Ron Boenau, FTA Office of Mobility Innovation, TRI–11, (202) 366–0195; for the Commercial Vehicle ITS Infrastructure Deployment component of the ITS Deployment Program: Mr. Steve Crane, FHWA Office of Motor Carrier and Highway Safety, HMTE, (202) 366–0950; for legal issues: Mr. Wilbert Baccus, HCC–32, FHWA Office of the Chief Counsel (202) 366–0780; or Linda Sorkin, TCC–24, FTA Office of the Chief Counsel, (202) 366–1936, 400 Seventh Street SW., Washington, DC. 20590. FHWA office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. FTA office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the **Federal Register**'s home page at: http://www.nara.gov/fedreg and the Government Printing Office's database at: http://www.access.gpo.gov/nara.

Background

The TEA–21 (Pub. L. 105–178, 112 Stat. 107) implementation material published in this notice is provided for informational purposes only. Specific questions on any of the material published in this notice should be directed to the contact persons named in the caption **FOR FURTHER INFORMATION CONTACT** for this program.

This implementation information applies to ITS projects in areas designated in either the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L. 105–277, 112 Stat. 2681) or in section 5208(g) of TEA–21. Although the locations and funding amounts for the ITS Deployment Program have been designated by Congress, specific projects must contribute to the integration and interoperability of intelligent transportation systems, consistent with the criteria set forth in TEA–21.

Section 5208 of TEA–21 establishes the ITS Integration Program to accelerate the integration and interoperability of ITS systems in both metropolitan and rural areas, and provides criteria for the selection of projects that will support this goal. These criteria include the demonstration of a strong commitment to cooperation among agencies, jurisdictions, and the private sector, and a commitment to a comprehensive plan of fully integrated intelligent transportation system deployment in accordance with the national ITS architecture and standards. Public-private partnerships are encouraged, including arrangements that generate revenue to offset public investment costs and minimize the relative percentage and amount of Federal ITS funding. All ITS Integration Program projects must be part of approved plans and programs developed under applicable statewide and metropolitan transportation planning processes and applicable State air quality implementation plans, as appropriate, at the time at which Federal funds are sought. In addition, funding recipients must demonstrate a commitment to the long-term operations, management and maintenance of the system without continued reliance on Federal ITS funding.

The purpose of the Commercial Vehicle Intelligent Transportation Infrastructure Deployment Program, as described in section 5209 of TEA–21, is to improve the safety and productivity of commercial vehicles and drivers, and to reduce the costs associated with commercial vehicle operations and Federal and State commercial vehicle regulatory requirements. TEA–21 establishes criteria for identifying priority areas and encourages multistate cooperation and corridor development to improve the safety of commercial vehicle operations. Activities funded under the Commercial Vehicle Intelligent Transportation Infrastructure Deployment Program should advance the use of technology to increase the efficiency of the regulatory inspection processes, reduce administrative burdens, facilitate commercial vehicle inspections, and generally increase the effectiveness of enforcement efforts. Funds can also be used to enhance the safe passage of commercial vehicles across the United States and across international borders.

The FHWA and the FTA are publishing this notice to provide information to the public on the activities and/or projects that are eligible for funding under the ITS Deployment Program, the locations and amounts of funding, and how the TEA–21 criteria will be met for the candidate projects to be funded.

(Authority: 23 U.S.C. 315; sec. 5208, Pub. L. 105–178, 112 Stat. 458, (23 U.S.C. 502 nt.); sec. 5209, Pub. L. 105–178, 112 Stat. 460, (23 U.S.C. 502 nt.); 49 CFR 1.48).

Issued on: March 31, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

Gordon J. Linton,

Federal Transit Administrator.

The text of the FHWA and the FTA implementation guidelines memorandum follows: January 4, 1999 (HTV–3, TOA–2)

ACTION: Notification of Participation in the TEA–21 ITS Deployment Program, FHWA Deputy Administrator, FTA Deputy Administrator, FHWA Division Administrators, FTA Regional Administrators, Motor Carrier State Directors.

This is to notify you that areas within your State or region have been identified to participate in the Intelligent Transportation Systems (ITS) Deployment Program based on designations contained in either the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, or in Section 5208(g)(2) of the Transportation Equity Act for the 21st Century (TEA–21).

While the FY 1999 Appropriations Act specifies the locations and amounts of funding, it does not designate specific projects to be funded. Rather, the Conference Report accompanying the FY 1999 Appropriations Act specifies that projects selected for funding ''contribute to the integration and interoperability of intelligent transportation systems consistent with the criteria set forth in TEA–21.''

The ITS Deployment Program authorized in TEA–21 includes two components. The ITS Integration component of the ITS Deployment Program is described in section 5208 of TEA–21. This program provides Federal ITS funding for the integration of multimodal ITS components in a variety of settings, including large regional or multi-State areas, metropolitan areas, and rural areas. Specific project

selection criteria are included in TEA–21.

The Commercial Vehicle Intelligent Transportation Infrastructure Deployment component of the ITS Deployment Program is described in section 5209 of TEA–21. This program provides Federal ITS funding to support the goal Congress established in TEA–21 to complete deployment of Commercial Vehicle Information Systems and Networks (CVISN) in a majority of States by September 30, 2003.

Progress towards this goal can only be achieved if those States designated in the FY 99 Appropriations Act use all or some of their funding to advance towards CVISN Level 1 Capabilities in their State.

Because this is a multimodal program, it will require close cooperation among FHWA Federal-aid and Motor Carrier staff, FHWA division offices and resource centers, FTA regional office staff and the appropriate headquarters offices. Areas designated for ITS Deployment Program funding will be required to submit project descriptions specifying the proposed use of these funds and indicating how the TEA–21 criteria will be met. We are finalizing guidance materials to assist you in working with the State and local agencies to implement the ITS Deployment Program. This material will be provided to you in the near future. It should be shared and discussed with the highway and transit officials in the State departments of transportation, and the appropriate local highway, transit, and metropolitan planning organizations as soon as possible after you receive it.

Attached is a list of the areas and the congressionally designated amounts contained in the FY 1999 Appropriations Act. As explained in the attachment, the actual amounts of funding available are less than the amount designated. This is due to the obligation limitation, the fact that the total amount of appropriation and authorization earmarks exceeds the TEA–21 program authorization, and the need to provide funding for national evaluations as specified in TEA–21.

Thank you in advance for your assistance in this important departmental initiative. If you have any questions about the ITS Deployment Program, please call Ms. Toni Wilbur, Federal Highway Administration (FHWA), (202) 366–2199; Mr. Ron Boenau, Federal Transit Administration (FTA), (202) 366–0195; or Mr. Steve Crane, FHWA Office of Motor Carrier and Highway Safety, (202) 366–0950.

/s/ signed by:
Nuria I. Fernandez.
/s/ signed by:
Gloria J. Jeff.

Attachment 1

December 23, 1998

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL TRANSIT ADMINISTRATION

INTELLIGENT TRANSPORTATION SYSTEMS

FY 1999 FUNDING FOR CONGRESSIONALLY DESIGNATED PROJECTS

Congressionally Designated Amounts Versus Amounts Authorized

FY 1999 Congressional designations against the ITS Deployment Program total $114.8 million; $9.8 million in TEA–21, and $105 million in the FY 1999 DOT Appropriation Act (see column 2 of the attached worksheet). However, TEA–21 only authorizes $105 million for the ITS Deployment Program in FY 1999. Thus, the $114.8 million in Congressionally designated projects exceeds the FY 1999 available amount of $105.0 billion by $9.8 million. To adjust the Congressionally designated amounts downward to the authorized level, each Congressionally designated project was necessarily reduced by approximately 8.5% (see column 3 of the attached worksheet).

Reductions Required by Section 1102(f) of TEA–21

The ITS Program is not only subject to the overall obligation limitation on Federal-aid Highways but is also subject to proportional distribution of that limitation. In FY 1999, each State and/or program subject to the distribution of the FY 1999 Obligation Limitation receives an obligation limitation equal to 88.3% of the amounts ''authorized'' for FY 1999.

Basically, section 1102(f) states that any amounts for ''allocated'' programs which cannot be obligated within the distributed obligation limitation will be taken away from these programs and redistributed to the States. Implementation of this section will reduce the ITS Deployment Program from $105 million to $92.715 million, a reduction of 11.7%. This mandated 11.7% reduction ($12.285 million) has been applied proportionately to each Congressionally designated project as reflected in Column 5 of the attached worksheet.

Reductions for Project Evaluations

Section 5204(j) requires the Secretary to issue guidelines and requirements to ensure that independent evaluations will be made on ITS operational tests and deployment projects. This section also directs the establishment of evaluation funding to ensure adequate evaluations are carried out.

For fiscal year 1999, all ITS Deployment Program funding recipients will be required to conduct an evaluation that is locally funded and executed. Cross-cutting assessments of these local evaluations will be conducted by the ITS Joint Program Office and will include gathering data and disseminating results. More details on the scope of local evaluations will be included in the forthcoming ITS Deployment Program guidance materials.

In-depth, independent evaluations of selected projects of national significance (as determined by the ITS Joint Program Office), will also be required. Funding for the evaluations of significant projects will be derived by pooling 2% of each project amount (see Column 7 of the attached worksheet). Please note that projects III and IV on the attached worksheet were funded from the ITS Deployment Program in TEA–21, but are exempt from the evaluation requirement since they are research projects, not ITS operational tests or deployments.

Commercial Vehicle Information Systems and Networks (CVISN) (See Column 9)

In TEA–21 Congress established a goal to complete deployment of CVISN in a majority of States by September 30, 2003. The FHWA's State CVISN Level 1 deployment strategy consists of three key steps: Planning, Design, and Implementation and Deployment. Our strategy for States to achieve this goal will require the use of all or a portion of 1999 funds to complete at a minimum the next step. The first step, Planning, includes participation in two ITS/CVO training courses and the development of an ITS/CVO State business plan. This step is essential to promote ITS/CVO awareness and coalition building among the State agencies involved in CVO and with industry. This step is estimated to require a minimum of $50 thousand of Federal ITS Funds. The focus of the second step, Design, is for the State to establish its CVISN project team, including at a minimum a CVISN project manager and a system architect. Once these individuals have been selected, a State can participate in the Understanding ITS/CVO Technology training course and in three CVISN

workshops. These activities will assist the State in developing its CVISN Project Plan and Top-Level Design. This step is estimated to require at least $350 thousand of Federal ITS Funds. The final step is the Implementation and Deployment of CVISN Level 1 Capabilities. The total amount of Federal ITS Funds for the three steps is $3 million. This represents the 50% ITS Federal share of the estimated $6 to $10 million total cost, based on CVISN project plans submitted by the participating Pilot States. Column 9 lists the minimum amount of FY 99 funds that are needed to support the completion of the next step for States identified in the Congressional designations. Note, the States of Minnesota, Maryland, and Washington (in partnership with Oregon) have already received Federal ITS deployment funding prior to FY 99. The minimum amount available for the State of Minnesota is $2,000,000, for the State of Maryland is $1,976,673.76, and for the State of Washington is $1,582,939.02 to complete the third step.

FEDERAL HIGHWAY ADMINISTRATION / FEDERAL TRANSIT ADMINISTRATION—ANALYSIS OF FY 1999 ITS DEPLOYMENT PROGRAM FUNDING

Column 1 Project	Column 2 Congressionally Designated Amounts	Column 3 Designations Exceed Authorizations	Column 4 Total Authorized	Column 5 Section 1102(f) Reduction (11.7%)	Column 6 Subtotal	Column 7 Project Evaluation Reduction (2%)	Column 8 Adjusted Total Available	Column 9 Minimum for CVISN	Column 10 Available for Integration Projects
TEA—21 Earmarks:	$9,800,000.00	($836,585.37)	$8,963,414.63	($1,048,719.51)	$7,914,695.12	($113,067.07)	$7,801,628.05	$0.00	$7,801,628.05
1. Great Lakes ITS Implementation	2,000,000.00	(170,731.71)	1,829,268.29	(214,024.39)	1,615,243.90	(32,304.88)	1,582,939.02	0.00	1,582,939.02
2. Northeast ITS Implementation	5,000,000.00	(426,829.27)	4,573,170.73	(535,060.98)	4,038,109.76	(80,762.20)	3,957,347.56	0.00	3,957,347.56
3. Haz. Mat. Monitoring Systems	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	0.00	1,211,432.93	0.00	1,211,432.93
4. Translink—Texas Transp. Inst	1,300,000.00	(110,975.61)	1,189,024.39	(139,115.85)	1,049,908.54	0.00	1,049,908.54	0.00	1,049,908.54
FY 1999 Appropriation Act;	105,000,000.00	(8,963,414.63)	96,036,585.37	(11,236,280.49)	84,800,304.88	(1,696,006.10)	83,104,298.78	9,861,612.80	73,242,685.98
1. Amherst, Massachusetts	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
2. Arlington County, Virginia	750,000.00	(64,024.39)	685,975.61	(80,259.15)	605,716.46	(12,114.33)	593,602.13	0.00	593,602.13
3. Atlanta, Georgia	2,000,000.00	(170,731.71)	1,829,268.29	(214,024.39)	1,615,243.90	(32,304.88)	1,582,939.02	0.00	1,582,939.02
4. Brandon, Vermont	375,000.00	(32,012.20)	342,987.80	(40,129.57)	302,858.23	(6,057.16)	296,801.07	0.00	296,801.07
5. Buffalo, New York	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
6. Centre Valley, Pennsylvania	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
7. Cleveland, Ohio	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
8. Columbus, Ohio	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
9. Corpus Christi, Texas	900,000.00	(76,829.27)	823,170.73	(96,310.98)	726,859.76	(14,537.20)	712,322.56	0.00	712,322.56
10. Dade County, Florida	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
11. Del Rio, Texas	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
12. Delaware River, Pennsylvania	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
13. Fairfield, California	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
14. Fitchburg, Massachusetts	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
15. Greater Metro. Region—DC	5,000,000.00	(426,829.27)	4,573,170.73	(535,060.98)	4,038,109.76	(80,762.20)	3,957,347.56	0.00	3,957,347.56
16. Hammond, Louisiana	4,000,000.00	(341,463.41)	3,658,536.59	(428,048.78)	3,230,487.80	(64,609.76)	3,165,878.05	0.00	3,165,878.05
17. Houston, Texas	2,000,000.00	(170,731.71)	1,829,268.29	(214,024.39)	1,615,243.90	(32,304.88)	1,582,939.02	0.00	1,582,939.02
18. Huntington Beach, California	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
19. Huntsville, Alabama	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
20. Inglewood, California	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	(24,228.66)	1,187,204.27	0.00	1,187,204.27
21. Jackson, Mississippi	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
22. Kansas City, Missouri	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
23. Laredo, Texas	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
24. Middlesboro, Kentucky	3,000,000.00	(256,097.56)	2,743,902.44	(321,036.59)	2,422,865.85	(48,457.32)	2,374,408.54	0.00	2,374,408.54
25. Mission Viejo, California	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
26. Mobile, Alabama	2,500,000.00	(213,414.63)	2,286,585.37	(267,530.49)	2,019,054.88	(40,381.10)	1,978,673.78	0.00	1,978,673.78
27. Monroe County, New York	400,000.00	(34,146.34)	365,853.66	(42,804.88)	323,048.78	(6,460.98)	316,587.80	0.00	316,587.80
28. Montgomery, Alabama	1,250,000.00	(106,707.32)	1,143,292.68	(133,765.24)	1,009,527.44	(20,190.55)	989,336.89	0.00	989,336.89
29. Nashville, Tennessee	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
30. New Orleans, Louisiana	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	(24,228.66)	1,187,204.27	0.00	1,187,204.27
31. New York City, New York	2,500,000.00	(213,414.63)	2,286,585.37	(267,530.49)	2,019,054.88	(40,381.10)	1,978,673.78	0.00	1,978,673.78
32. New York/Long Island, NY	2,300,000.00	(196,341.46)	2,103,658.54	(246,128.05)	1,857,530.49	(37,150.61)	1,820,379.88	0.00	1,820,379.88
33. Oakland County, Michigan	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
34. Onandaga County, New York	400,000.00	(34,146.34)	365,853.66	(42,804.88)	323,048.78	(6,460.98)	316,587.80	0.00	316,587.80
35. Port Angeles, Washington	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
36. Raleigh-Wake County, NC	2,000,000.00	(170,731.71)	1,829,268.29	(214,024.39)	1,615,243.90	(32,304.88)	1,582,939.02	0.00	1,582,939.02
37. Riverside, California	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
38. San Francisco, California	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	(24,228.66)	1,187,204.27	0.00	1,187,204.27
39. Scranton, Pennsylvania	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
40. Silicon Valley, California	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	(24,228.66)	1,187,204.27	0.00	1,187,204.27
41. Spokane, Washington	450,000.00	(38,414.63)	411,585.37	(48,155.49)	363,429.88	(7,268.60)	356,161.28	0.00	356,161.28
42. Springfield, Virginia	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
43. St. Louis, Missouri	750,000.00	(64,024.39)	685,975.61	(80,259.15)	605,716.46	(12,114.33)	593,602.13	0.00	593,602.13
44. State of Alaska	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	(24,228.66)	1,187,204.27	350,000.00	837,204.27
45. State of Idaho	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	350,000.00	441,469.51
46. State of Maryland	2,500,000.00	(213,414.63)	2,286,585.37	(267,530.49)	2,019,054.88	(40,381.10)	1,978,673.78	1,978,673.78	0.00
47. State of Minnesota	7,100,000.00	(606,097.56)	6,493,902.44	(759,786.59)	5,734,115.85	(114,682.32)	5,619,433.54	2,000,000.00	3,619,433.54
48. State of Mississippi	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	350,000.00	441,469.51
49. State of Missouri	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	350,000.00	45,734.76
50. State of Montana	700,000.00	(59,756.10)	640,243.90	(74,908.54)	565,335.37	(11,306.71)	554,028.66	350,000.00	204,028.66
51. State of Nevada	575,000.00	(49,085.37)	525,914.63	(61,532.01)	464,382.62	(9,287.65)	455,094.97	350,000.00	105,094.97
52. State of New Jersey	3,000,000.00	(256,097.56)	2,743,902.44	(321,036.59)	2,422,865.85	(48,457.32)	2,374,408.54	350,000.00	2,024,408.54
53. State of New Mexico	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	350,000.00	441,469.51
54. State of New York	2,500,000.00	(213,414.63)	2,286,585.37	(267,530.49)	2,019,054.88	(40,381.10)	1,978,673.78	350,000.00	1,628,673.78
55. State of North Dakota	1,450,000.00	(123,780.49)	1,326,219.51	(155,167.68)	1,171,051.83	(23,421.04)	1,147,630.79	50,000.00	1,097,630.79
56. Commonwealth of Pennsylvania	14,000,000.00	(1,195,121.95)	12,804,878.05	(1,498,170.73)	11,306,707.32	(226,134.15)	11,080,573.17	350,000.00	10,730,573.17
57. State of Texas	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	50,000.00	741,469.51
58. State of Utah	3,600,000.00	(307,317.07)	3,292,682.93	(385,243.90)	2,907,439.02	(58,148.78)	2,849,290.24	350,000.00	2,499,290.24
59. State of Washington	2,000,000.00	(170,731.71)	1,829,268.29	(214,024.39)	1,615,243.90	(32,304.88)	1,582,939.02	1,582,939.02	0.00
60. State of Wisconsin	1,500,000.00	(128,048.78)	1,371,951.22	(160,518.29)	1,211,432.93	(24,228.66)	1,187,204.27	350,000.00	837,204.27
61. Temucula, California	250,000.00	(21,341.46)	228,658.54	(26,753.05)	201,905.49	(4,038.11)	197,867.38	0.00	197,867.38
62. Tucson, Arizona	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
63. Volusia County, Florida	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
64. Warren County, Virginia	250,000.00	(21,341.46)	228,658.54	(26,753.05)	201,905.49	(4,038.11)	197,867.38	0.00	197,867.38
65. Wausau-Stevens Point, WI	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.51	0.00	791,469.51
66. Westchester/Putnam Co., NY	500,000.00	(42,682.93)	457,317.07	(53,506.10)	403,810.98	(8,076.22)	395,734.76	0.00	395,734.76
67. White Plains, New York	1,000,000.00	(85,365.85)	914,634.15	(107,012.20)	807,621.95	(16,152.44)	791,469.52	0.00	791,469.52
Project Evaluations	0.00	0.00	0.00	0.00	0.00	1,809,073.17	1,809,073.17	0.00	1,809,073.17
GRAND TOTAL	$114,800,000.00	($9,800,000.00)	$105,000,004.00	($12,285,000.00)	$92,715,000.00	$0.00	$92,715,000.00	$9,861,612.80	$82,853,387.20

[FR Doc. 99–8569 Filed 4–7–99; 8:45 am]
BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33730]

IMC Global Inc.—Intracorporate Family Transaction Exemption—Trona Railway Company, LLC

IMC Global Inc. (IMC), a noncarrier, has filed a verified notice of exemption. The exempt transaction involves the merger of two IMC subsidiaries: Trona Railway Company, LLC (TR–LLC), currently a noncarrier,[1] and Trona Railway Company (Trona), a Class III railroad.[2] Trona will be merged into TR–LLC, with TR–LLC being the surviving entity following the merger.

The earliest the transaction could be consummated was March 25, 1999, the effective date of the exemption (7 days after the notice of exemption was filed).

The proposed merger is intended to modify IMC's corporate structure through the merger of Trona and TR–LLC in order to improve the financial viability of the applicants, to permit the merged company to enjoy the benefits afforded to limited liability companies under Delaware law, and to facilitate the recapitalization of certain noncarrier subsidiaries of IMC, including TR–LLC's direct corporate parent, IMC Chemicals Inc.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The parties state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to reopen will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33730, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Donald H. Smith, Esq., Sidley & Austin, 1722 I Street, NW., Washington, DC 20006.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: March 31, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–8472 Filed 4–7–99; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33729]

Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over BNSF's rail line between (1) Rockview Junction, MO, BNSF milepost 141.7 (River Subdivision), and Jonesboro, AR, BNSF milepost 420.0 (Thayer South Subdivision), via Turrell, AR, BNSF milepost 282.3 (River Subdivision) and (2) Rockview Junction, MO, BNSF milepost 141.7 (River Subdivision), and KC Junction, TN, BNSF milepost 486.0 (Thayer South Subdivision), a total distance of approximately 350.4 miles.[1]

The transaction is scheduled to be consummated on or shortly after April 1, 1999.

The purpose of the trackage rights is permit UP to use BNSF trackage when UP's trackage is out of service for maintenance.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.-Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33729, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Joseph D. Anthofer, Esq., 1416 Dodge Street, #830, Omaha, NE 68179.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: March 30, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–8327 Filed 4–7–99; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

March 29, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

[1] TR–LLC is a newly-formed limited liability company chartered in the State of Delaware.

[2] TR–LLC and Trona are both indirectly owned and controlled by IMC. Trona operates approximately 30 miles of rail line between Trona, CA, and a connection with the Union Pacific Railroad near Searles, CA. IMC also indirectly owns and controls The Hutchinson & Northern Railway Company, a Class III railroad, which operates 3 miles of rail line in the State of Kansas.

[1] On March 19, 1999, UP filed a petition for exemption in STB Finance Docket No. 33729 (Sub-No. 1), *Union Pacific Railroad Company—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company,* wherein UP requests that the Board permit the proposed overhead trackage rights arrangement described in the present proceeding to expire on July 31, 1999. That petition will be addressed by the Board in a separate decision.

DATES: Written comments should be received on or before May 10, 1999, to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0731.

Regulation Project Number: PS–262–82 Final.

Type of Review: Extension.

Title: Definition of an S Corporation.

Description: The regulations provide the procedures and the statements to be filed by certain individuals for making the election under section 1361(d)(2), the refusal to consent to that election, or the revocation of that election. The statements required to be filed would be to verify that taxpayers are complying with requirements imposed by Congress under Subchapter S.

Estimated Number of Respondents: 1,005.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (Non-recurring).

Estimated Total Reporting Burden: 1,005 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–8755 Filed 4–7–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

April 2, 1999.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before May 10, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–1643.

Regulation Project Number: REG–209484–87 Final.

Type of Review: Extension.

Title: Federal Insurance Contributions Act (FICA) Taxation of Amounts Under Employee Benefit Plans.

Description: This regulation provides guidance as to when amounts deferred under or paid from a nonqualified deferred compensation plan are taken into account as wages for purposes of the employment taxes imposed by the Federal Insurance Contributions Act (FICA). Section 31.3121(v)(2)–1(a)(2) requires that the material terms of a plan be set forth in writing.

Respondents: Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents/ Recordkeepers: 2,500.

Estimated Burden Hours Per Respondent/Recordkeeper: 5 hours.

Frequency of Response: On occasion, Other (once).

Estimated Total Reporting/ Recordkeeping Burden: 12,500 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 99–8756 Filed 4–7–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comments concerning extension, without change, of an information collection titled (MA)—Securities Offering Disclosure Rules (12 CFR 16). The OCC also gives notice that it has sent the information collection to OMB for review.

DATES: You should submit your written comments to both OCC and the OMB Reviewer by May 10, 1999.

ADDRESSES: You should send your written comments to the Communications Division, Attention: 1557–0120, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, you can send comments by facsimile transmission to (202)874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: You may request additional information, a copy of the collection, or a copy of the supporting documentation submitted to OMB by contacting Jessie Gates or Camille Dixon, (202)874–5090, Legislative and Regulatory Activities Division (1557–0120), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: The OCC is proposing to extend OMB approval of the following information collection:

Title: (MA)—Securities Offering Disclosure Rules (12 CFR 16).

OMB Number: 1557–0120.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation.

Under 12 U.S.C. 93a, the OCC is empowered to issue rules and regulations to carry out its responsibilities. The requirements in 12 CFR Part 16 enable the OCC to perform its responsibilities relating to offerings of securities by national banks by providing the investing public with facts about the condition of the bank, the reasons for raising new capital, and the terms of the offering. Part 16 requires national banks to conform generally to Securities and Exchange Commission rules.

The collections of information in Part 16 are found in:

12 CFR 16.3, 16.4, 16.5, 16.6, 16.7, 16.8, 16.15, 16.17, 16.18, 16.19, 16.20, and 16.30.

The following is a brief discussion of the elements of the information collection in each section of regulations:

Sections 16.3 and 16.15 require a national bank to file its registration statement with the OCC;

Section 16.4 states that the OCC may require a national bank to submit to the OCC certain communications not deemed an offer;

Section 16.5 provides an exemption for items that satisfy the requirements of SEC Rule 144 which, in turn, requires certain filings;

Section 16.6 requires a national bank to file documents with OCC and to make certain disclosures to purchasers in sales of nonconvertible debt;

Section 16.7 requires a national bank to file a notice with the OCC;

Section 16.8 requires a national bank to file offering documents with the OCC;

Section 16.15 requires a national bank to file a registration statement and sets forth content requirements for the registration statement;

Section 16.17 requires a national bank to file four copies of each document filed under Part 16, and requires filers of amendments or revisions to underline or otherwise indicate clearly any changed information;

Section 16.18 requires a national bank to file an amended prospectus when the information in the current prospectus becomes stale, or when a change in circumstances makes the current prospectus incorrect;

Section 16.19 requires a national bank to submit a request to OCC if it wishes to withdraw a registration statement, amendment, or exhibit;

Section 16.20 requires a national bank to file current and periodic reports as required by sections 12 and 13 of the Exchange Act (15 U.S.C. 78*l* and m) and SEC Regulation 15d (17 CFR 240.15d–1 through 240.15Aa–1); and

Section 16.30 requires a national bank to include certain elements and follow certain procedures in any request to OCC for a no-objection letter.

These information collection requirements ensure bank compliance with applicable Federal law, further bank safety and soundness, provide protections for banks and the public, and further public policy interests.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit.

Number of Respondents: 101.

Total Annual Responses: 101.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 2,333 Hours.

OCC Contact: Jessie Gates or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, OMB No. 1557–0120, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

OMB Reviewer: Alexander Hunt, (202) 395–7340, Paperwork Reduction Project 1557–0120, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Comments

Your comment will become a matter of public record. You are invited to comment on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) Whether the OCC's burden estimate is accurate;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Whether the OCC's estimates of the capital or startup costs and costs of operation, maintenance, and purchase of services to provide information are accurate.

Additionally, the OCC requests comments on the impact of this information collection on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comments on the impact of this information collection on community banks' current resources and available personnel with the requisite expertise, and whether the goals of Part 16 could be achieved, for community banks, through an alternative approach.

Dated: April 1, 1999.

Mark Tenhundfeld,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 99–8783 Filed 4–7–99; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comments concerning extension of an information collection titled International Regulation (12 CFR 28). The OCC also gives notice that it has sent the information collection to OMB for review.

DATES: Comments are due by: May 10, 1999.

ADDRESSES: Your comments regarding this information collection are welcome. You should submit your comments to the OMB Reviewer and to the OCC's Communications Division, Attention: 1557–0102, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. Also, you can send your comments by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov.

You can inspect and photocopy the comments at the OCC's Public Reference Room, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: You can request additional information, a copy of the collection, or a copy of OCC's submission to OMB by contacting Jessie Gates or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0102), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: On June 15, 1998, the OCC published a request for comments in the **Federal Register** (63 FR 32695) concerning its request for extension without change of the information collection. No comments were received.

Title: International Regulation (12 CFR 28)

OMB Number: 1557–0102.

Form Number: None.

Abstract: This information collection covers an existing regulation and involves no change to the regulation or the information collection. The OCC requests only that OMB renew its approval of the information collection in the current regulation.

The International Banking Act of 1978, 12 U.S.C. 3101 *et seq.*, as

amended, requires collection of specific information relating to licensing applications and supervision of Federal branches and agencies of foreign banks in the United States and mandates recordkeeping requirements for capital equivalency deposits, voluntary liquidations, asset pledges, and asset maintenance requirements.

The International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153, 12 U.S.C. 3906) mandates the reporting and disclosure requirements for international assets as well as the recordkeeping requirements for accounting for fees on international loans.

The regulation, 12 CFR 28, implements requirements imposed on national banks and Federal branches and agencies concerning international activities. This submission covers all of the information collections in 12 CFR 28. The following sections of regulations in 12 CFR 28 produce reportable burden:

Section 28.3 requires a national bank to notify the OCC when it takes certain actions regarding its foreign operations;

Section 28.14 requires a designation of one branch or agency to maintain consolidated information;

Section 28.15 requires a national bank to maintain records and to seek OCC approval before permitting withdrawal of certain foreign bank capital equivalency deposits;

Section 28.16 contains recordkeeping requirements and allows a foreign bank to apply to the OCC for an exemption to permit an uninsured Federal branch to accept or maintain certain deposit accounts;

Section 28.18 requires a Federal branch or agency to maintain records and to provide the OCC with a copy of certain reports filed with other Federal regulatory agencies;

Section 28.20 requires a foreign bank to obtain OCC approval to maintain certain assets;

Section 28.52 contains recordkeeping requirements and requires a banking institution to establish and maintain an Allocated Transfer Risk Reserve in certain circumstances; and

Section 28.53 requires a banking institution to maintain records regarding its accounting for fees on international loans.

These information collection requirements ensure bank compliance with applicable Federal law, further bank safety and soundness, provide protections for banks, and further public policy interests.

Type of Review: Renewal of OMB approval without change.

Affected Public: Businesses or other for-profit.

Number of Respondents: 170.

Total Annual Responses: 170.

Frequency of Response: On occasion.

Total Annual Burden Hours: 5,345.

OCC Contact: Jessie Gates or Camille Dixon, (202)874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

OMB Reviewer: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

Comments

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: April 1, 1999.

Mark Tenhundfeld,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 99–8784 Filed 4–7–99; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Information Collection; Submission for OMB Review; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Submission for OMB review; comment request.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. The OCC may not conduct or sponsor, and a respondent is not required to respond to, an information collection that has been extended, revised, or implemented unless it displays a currently valid Office of Management and Budget (OMB) control number. Currently, the OCC is soliciting comments concerning extension of an information collection titled Fair Housing Home Loan Data System Regulation (12 CFR 27). The OCC also gives notice that it has sent the information collection to OMB for review.

DATES: Comments are due by: May 10, 1999.

ADDRESSES: Your comments regarding this information collection are welcome. You should send your written comments to the OMB Reviewer and to the OCC's Communications Division, Attention: 1557–0159, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. Also, you can send your comments by facsimile transmission to (202) 874–5274, or by electronic mail to regs.comments@occ.treas.gov.

You can inspect and photocopy the comments at the OCC's Public Reference Room, between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: You can request additional information, a copy of the collection, or a copy of OCC's submission to OMB by contacting Jessie Gates or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0159), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Fair Housing Home Loan Data System Regulation (12 CFR 27).

OMB Number: 1557–0159.

Form Number: None.

Abstract: This submission covers an existing regulation and involves no change to the regulation or to the information collections embodied in the regulation. The OCC requests only that OMB renew its approval of the information collections in the current regulation. This regulation requires national banks to maintain records and to make occasional filings to the OCC, upon the OCC's request, regarding home loans and certain other real estate loans.

The Fair Housing Act (42 U.S.C. 3605) prohibits discrimination in the financing of housing on the basis of race, color, religion, sex, or national origin. The Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*) prohibits discrimination in any aspect of a credit transaction on the basis of race, color,

religion, national origin, sex, marital status, age, receipt of income from public assistance, or exercise of any right under the Consumer Credit Protection Act. The OCC is responsible for ensuring that national banks comply with those laws. This information collection is needed to promote national bank compliance and for OCC to fulfill its statutory responsibilities.

This submission covers all of the information collections contained in 12 CFR Part 27. The following sections of regulations in Part 27 produce reportable burden:

Section 27.3 requires a national bank that is required to collect data on home loans under 12 CFR Part 203 to present the data on Federal Reserve Form FR HMDA–LAR, or in an automated format in accordance with the HMDA–LAR instructions, and to include one additional item (the reason for denial) on the HMDA–LAR. Section 27.3 also lists exceptions to HMDA–LAR recordkeeping requirements. Section 27.3 further lists the information that banks should obtain from an applicant as part of a home loan application, and states information that a bank must disclose to an applicant;

Section 27.5 requires a national bank to maintain the information for 25 months after the bank notifies the applicant of action taken on an application, or after withdrawal of an application; and

Section 27.7 requires that a bank submit the information to the OCC upon its request, prior to a scheduled examination.

These information collection requirements ensure bank compliance with applicable Federal law, further bank safety and soundness, provide protections for banks and the public, and further public policy interests.

Type of Review: Extension, without change, of a currently approved collection.

Affected Public: Businesses or other for-profit.

Number of Respondents: 2,400.

Total Annual Responses: 2,400.

Frequency of Response: On occasion.

Total Annual Burden: 4,369 Hours.

OCC Contact: Jessie Gates or Camille Dixon, (202)874–5090, Legislative and Regulatory Activities Division, OMB No. 1557–0159, Office of the Comptroller of the Currency, 250 E Street SW, Washington, DC 20219.

OMB Reviewer: Alexander Hunt, (202)395–7340, Paperwork Reduction Project 1557–0159, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Comments

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Additionally, the OCC requests comment on the impact of this information collection on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comments on the impact of this information collection on community banks' current resources and available personnel with the requisite expertise, and whether the goals of Part 27 could be achieved, for community banks, through an alternative approach.

Dated: April 1, 1999.

Mark Tenhundfeld,

Assistant Director, Legislative & Regulatory Activities Division.

[FR Doc. 99–8785 Filed 4–7–99; 8:45 am]

BILLING CODE 4810–33–P

Corrections

Federal Register
Vol. 64, No. 67
Thursday, April 8, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

7 CFR Part 1728

Electric Overhead Distribution Lines; Specifications and Drawings for 24.9/14.4 kV Line Construction

Correction

In rule document 99–7649, appearing on page 14813, in the issue of Monday, March 29, 1999, make the following corrections:

1. On page 14813, in the second column, the document subject heading is corrected to read as set forth above.

2. On the same page, in the third column, under **FOR FURTHER INFORMATION CONTACT:**, in the second line, ''James K, Bohlik'' should read ''James L. Bohlk''.

[FR Doc. C9–7649 Filed 4–7–99; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[AD–FRL–6185–4]

RIN 2060–ZA03

Federal Plan Requirements for Large Municipal Waste Combustors Constructed on or Before September 20, 1994

Correction

In rule document 98–29967 beginning on page 63191 in the issue of Thursday, November 12, 1998, make the following corrections:

1. On page 63192, in the first column, in the first full paragraph, in the 12th line, ''Large'' should read ''large''.

2. On the same page, in the second column, in the seventh line, ''plane'' should read ''plan''.

3. On the same page, in the third column, in the 13th line from the bottom, ''not'' should be added after ''has''.

4. On page 63193, in the third column, under ''Regional Office Contacts'', in the third line, ''Plan'' should read ''plan''.

5. On page 63195, in the second column, in the second line from the bottom, ''so'' should read ''as''.

6. On page 63196, in Table 4, under ''Good Cumbustion Practices:'' in the the fourth bulleted item, ''100'' should read ''110''.

7. On page 63198, in the third column, in the second full paragraph, in the third line, ''State'' should read ''States''.

8. On the same page, in the same column, in the same paragraph, in the Eighth line, ''publsihed'' should read ''published''.

9. On page 63199, in the first column, in the 10th line from the bottom, ''ETA'' should read ''EPA''.

10. On the same page, in the second column, in the third line, ''permit'' should read ''permits''.

11. On the same page, in the third column, in the 13th line, ''farmer.sand@epamail.epa.gov'' should read ''farmer.sandy@epamail.epa.gov''.

§ 62.14102 [Corrected]

12. On page 63202, in the third column, in § 62.14102(a), in the seventh line, ''1994,'' should read ''1994''.

§ 62.14109 [Corrected]

13. On page 63206, in the third column, in § 62.14109(j), in the seventh line, ''§ 62.14208'' should read ''§ 62.14108''.

14. On the same page, in the same column, in § 62.14109(j), in the 14th line, ''2000,'' should read ''2000''.

Subpart FFF [Corrected]

15. On page 63208, in Table 6 of subpart FFF, in the fourth column under Increment 2, in the first line, ''01/19/02'' should read ''01/19/00''.

[FR Doc. C8–29967 Filed 4–7–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-AGL-77]

Modification of Class E Airspace; Grand Rapids, MI

Correction

In rule document 99–7451 beginning on page 14599, in the issue of Friday, March 26, 1999, make the following correction:

§ 71.1 [Corrected]

On page 14600, in the first column, under the heading **AGL MI E5 Grand Rapids, MI [Revised]**, in the ninth line, after the word ''radius'' add ''of Kent County International Airport, and within a 6.0 mile radius''.

[FR Doc. C9–7451 Filed 4–7–99; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday
April 8, 1999

Part II

Department of Transportation

Coast Guard

Environmental Protection Agency

33 CFR Part 154

Response Plans for Marine Transportation-Related Facilities Handling Non-Petroleum Oils; Proposed Rule

40 CFR Part 112

Oil Pollution Prevention and Response; Non-Transportation-Related Facilities; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 154

[USCG–1999–5149]

RIN 2115–AF79

Response Plans for Marine Transportation-Related Facilities Handling Non-Petroleum Oils

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations requiring response plans for marine transportation-related facilities that handle, store, or transport animal fats or vegetable oils. Specifically, the proposal downgrades the initial classification of affected facilities, clarifies planning and equipment requirements, and further harmonizes our regulations with the Environmental Protection Agency's response planning regulations. This proposal addresses a statutory mandate and an industry petition.

DATES: Comments must reach the Docket Management Facility on or before July 7, 1999.

ADDRESSES: You may mail your comments to the Docket Management Facility, (USCG–1999–5149), U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington DC 20590–0001, or deliver them to room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. The Docket Management Facility maintains the public docket for this rulemaking. Comments, and documents as indicated in this preamble will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building at the same address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For questions on this proposed rule, contact Mr. Mark Meza, Project Manager, Office of Response (G-MOR) Coast Guard, telephone 202–267–0304; email mmeza@comdt.uscg.mil. For questions on viewing, or submitting material to, the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to participate in this rulemaking by submitting written data, views, or arguments. You should include your name and address, identify this rulemaking (USCG–1999–5149) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing to the Docket Management Facility at the address under **ADDRESSES.** You should enclose a stamped, self-addressed postcard or envelope, if you want acknowledgment that we received your comments.

The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Docket Management Facility at the address under **ADDRESSES.** The request should include the reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On October 21, 1998, Congress passed the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999 (Pub. L. 105–277). Section 343(b) of that act mandates the Coast Guard to amend, by March 31, 1999, 33 CFR part 154 to comply with the Edible Oil Regulatory Reform Act (EORRA) (Pub. L. 104–55).

On March 14, 1997, the National Oil Processors Association (NOPA) petitioned the Coast Guard to change response plan regulations for marine transportation-related (MTR) facilities to more fully differentiate animal fat and vegetable oil facilities from other oil facilities.

This notice of proposed rulemaking (NPRM) addresses the mandate from Congress and the petition from NOPA. This NPRM proposes amendments only to response plan requirements for MTR facilities that handle, store, or transport animal fats and vegetable oils.

Legislative and Regulatory History

On August 18, 1990, Congress passed the Oil Pollution Act of 1990 (OPA 90) (Pub. L. 101–380) in response to several major oil spills. OPA 90 amended section 311(j) of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321(j)) establishing requirements, and an implementation schedule, for facility response plans. The FWPCA, as amended by OPA 90, directs the President to issue regulations requiring response plans for MTR facilities transferring oil.

The President delegated the authority to issue these regulations to the Commandant, U.S. Coast Guard via the Secretary of the Department of Transportation. On February 5, 1993, the Coast Guard published an interim final rule (IFR) in the **Federal Register** entitled ''Response Plans for Marine Transportation-Related Facilities''(58 FR 7330).

On November 20, 1995, Congress passed the Edible Oil Regulatory Reform Act (EORRA). This Act requires Federal agencies to differentiate between fats, oils, and greases of animal, marine, or vegetable origin, and other oils and greases, in issuing regulations. The Act also requires Federal agencies to consider the environmental effects and the physical, chemical, biological, and other properties of the different classes of fats, oils, and greases.

On February 29, 1996, having met the requirements of the EORRA and based on comments received to the IFR, the Coast Guard published its final rule (FR) on response plans for MTR facilities in the **Federal Register** (61 FR 7890). These regulations are codified in 33 CFR part 154, subparts F through I. The final rule added two new subparts to the response plan regulations (subparts H and I). Subpart H contains planning requirements for animal fat and vegetable oil facilities and subpart I contains planning requirements for other non-petroleum oils facilities. The final rule also allows animal fat and vegetable oil facilities to propose needed response equipment and personnel for worst case discharges (WCD), rather than the specific equipment and personnel required for petroleum oil facilities.

On October 19, 1996 Congress passed the Coast Guard Authorization Act of 1996 (Pub. L. 104–324). Section 1130 of that act requires the Secretary of Transportation to submit to Congress an annual report describing how new Coast Guard regulations meet EORRA requirements. The Secretary of Transportation submitted reports on April 11, 1997, and March 3, 1998. The reports, available in the public docket for this proposed rule, describe how the Coast Guard's regulations meet the EORRA requirements.

In a letter dated March 14, 1997, NOPA filed a petition with the Coast Guard requesting amendments to the

MTR facility response plan regulations. The petition requested separate and appropriate regulations for facilities that handle animal fats and vegetable oils. A detailed listing of the petitioners' requests follows this section.

On October 27, 1997, Congress passed the Department of Transportation and Related Agencies Appropriations Act of 1998 (Pub. L. 105–66). Section 341 of that Act stated that the Coast Guard could not use any of the available funds to issue, implement, or enforce a regulation or to establish an interpretation or guideline under the EORRA that did not recognize and provide for differences in—

- Physical, chemical, biological, and other relevant properties; and
- Environmental effects.

On October 21, 1998, Congress passed the Omnibus Consolidated and Emergency Supplemental Appropriations Act of 1999. Section 343(b) of that act states that not later than March 31, 1999, the Coast Guard shall issue regulations amending 33 CFR part 154 to comply with the requirements of the EORRA.

On October 21, 1998, Congress also passed the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act of 1999 (Pub. L. 105–276), which contains a similar requirement for EPA to amend, not later than March 31, 1999, its regulations to comply with EORRA. On January 16, 1998, NOPA filed, with EPA, a petition virtually identical to the one filed with the Coast Guard. In a separate notice of proposed rulemaking (NPRM), EPA proposes modifications to its response plan rules for animal fat and vegetable oil facilities. Each agency's NPRM accounts for the characteristics of facilities in its jurisdiction. To further harmonize requirements, the two agencies have worked together to develop their respective NPRMs. The Coast Guard and EPA will continue to work together to draft their respective final rules.

Petition to the Coast Guard

The petition filed by NOPA requests the following changes to our existing regulations.

(a) *Downgrading the initial classification of affected facilities from significant and substantial harm to substantial harm*. The Coast Guard proposes this change. A detailed justification for downgrading the initial classification of animal fat and vegetable oil facilities follows this section.

(b) *Relaxing the current response time for response resources to be at a spill site from 12 hours to 24 hours.* The petitioners also requested that we relax response time in high volume ports (HVPs) from 6 hours to 12 hours. The Coast Guard does not propose relaxing response times. The request could have the effect of doubling the response time in the event of a spill. This change would significantly reduce the effectiveness of a response. Immediate action is critical when mitigating a spill. A quick response prevents problems with controlling and collecting oil. Control and collection are more difficult when the oil has dispersed or combined with water. Relaxing the times for delivery of dispersants limits their usefulness because dispersants, when needed, must be applied before significant emulsification and distribution of the oil.

(c) *Revising the regulations to explicitly state the alternative of taking no action if mitigation activity is more harmful to the environment.* The Coast Guard does not propose this change. Stating no action in the regulations may lead industry to conclude that no action is an option in any circumstance. The Federal On-Scene Coordinator (FOSC) already has the authority to decide on the appropriate level of response action, ranging from taking no action to taking vigorous and extensive action. Response levels are based on factors such as—

- Spill amount;
- Proximity to threatened areas;
- Type of oil;
- Weather conditions; and
- Currents and tides.

(d) *Relaxing the requirement for equipment exercises from semiannual to annual.* The Coast Guard does not propose this change. Such action would reduce by half the number of exercises for an animal fat or vegetable oil facility. Such action would make these exercises too infrequent. Semiannual equipment exercises ensure facilities maintain their ability to respond to spills.

(e) *Clarifying the provision that facilities may use public fire fighting resources under the terms of cooperative agreements.* The current wording in the regulations permits public resources that are supported by local municipal, county, city, or state organizations, as well as other resources, which may be supported by industry. However, under a separate regulatory project (USCG–1998–3497), the Coast Guard is reviewing the possible conditions under which the industry as a whole needs fire fighting resources, and may propose further guidelines based on that review. Therefore, the Coast Guard will retain the current wording in subpart H because it is sufficiently clear to meet the intent of the petitioner's request. We may revise the regulations in the future based on our ongoing review.

(f) *Allowing a facility, as a condition of participating in Area Exercises, be the lead exercise developer and final decision authority on exercise design.* The Coast Guard does not propose this change. The Coast Guard anticipates that the facility would, of necessity, be a key participant, and often the lead, in planning for an Area Exercise. However, to require their leadership and final approval would unduly limit the authority of the FOSC and constrain the Area Committee in fulfilling its statutory responsibilities.

(g) *Eliminating the requirement for annual plan reviews while retaining the requirement to report changes to plans as they occur.* The Coast Guard does not propose this change. The Coast Guard concluded that thorough and regular review of plans is desirable and necessary. Formal plan reviews ensure plan holders keep critical information such as phone contacts, reporting requirements, and equipment inventories up-to-date.

Discussion of Proposed Rule

The Coast Guard proposes the following three changes to our existing regulations.

(a) *Downgrading the initial classification of affected facilities from significant and substantial harm to substantial harm*. Initially, the Coast Guard would consider all animal fat and vegetable oil facilities as substantial harm facilities and the Captain of the Port (COTP) would have the authority to upgrade each facility to a significant and substantial harm based on the criteria in our proposed 33 CFR 154.1216(b). The Coast Guard's Marine Safety Information System (MSIS) database collects information on various marine activities. By using MSIS to review facility spill history between 1992 and 1998, we found that 28 of 31 spills (90%) of animal fats and vegetable oils were less than 1,000 gallons; 23 of 28 (82%) were less than 100 gallons. While animal fats and vegetable oils are just as damaging to the environment as other oils, when spilled in bulk, we propose to reclassify animal fat and vegetable oil facilities from significant and substantial harm to substantial harm taking into account this history of spills of very small amounts.

(b) *Requiring planning for an average most probable discharge (AMPD).* The spill history used to justify downgrading animal fat and vegetable oil facilities shows a pattern of relatively small spill volumes. These volumes meet the criteria for AMPD volumes defined in 33 CFR 154.1020. Accordingly, we

propose requiring AMPD planning. By proposing AMPD planning, the Coast Guard will further harmonize our regulations with EPA's. The Coast Guard does not think requiring AMPD planning will increase planning burdens for animal fat and vegetable oil facilities. Under 33 CFR 154.545, we already require oil facilities to plan for AMPD volumes. Animal fat or vegetable oil facilities may use the requirements under 33 CFR 154.545 to satisfy our proposed AMPD planning requirements. Our proposed 33 CFR 154.545(e) explicitly allows this option.

(c) *Requiring at least 1,000 feet of boom.* Current regulations require at least 1,000 feet of boom for Group I through Group IV petroleum oils. Groups of oils are explained in the definitions for persistent and non-persistent oils under 33 CFR 154.1020. Current regulations also require a minimum of 200 feet of boom for mobile and fixed substantial harm animal fat or vegetable oil facilities. We consider 200 feet inadequate for fixed animal fat or vegetable oil facilities. The Coast Guard proposes requiring, to be on scene within one hour, the greater of 1,000 feet of boom or twice the length of the longest vessel that regularly conducts operations at a fixed facility. The Coast Guard estimates that fixed animal fat and vegetable oil facilities already have access to at least 1,000 feet of boom through existing worse case discharge (WCD) volume planning. We do not propose any changes to the minimum requirement of 200 feet of boom for mobile facilities.

Changes Proposed by EPA

In its NPRM, EPA proposes tables to calculate planning volumes for animal fat or vegetable oil facilities. EPA's proposed tables are similar to existing tables in both agencies' regulations. Current Coast Guard and EPA regulations allow animal fat and vegetable oil facilities to determine how to calculate planning volumes. The Coast Guard and EPA allowed this self-determination because, when drafting the final rules, neither the Coast Guard nor EPA had the necessary data on animal fats and vegetable oils to create such tables. In addition, the agencies determined that current guidelines and practices provided the regulated industry with flexibility in meeting required planning criteria. Since then, EPA has obtained scientific studies and information on the behavior of animal fats and vegetable oils, and has used these studies to develop the proposed tables. These tables are based on the behavior of animal fats and vegetable oils and on their chemical and physical properties. The tables separate oils based on their specific gravity. Oils with a specific gravity greater than one generally sink below the water surface. As proposed by EPA, the owner or operator of a facility handling, storing, or transporting an oil with a specific gravity greater than one, is responsible for determining appropriate resources to mitigate such an oil spill. Proposed resources should include:

- Equipment to locate oil on the bottom or suspended in the water;
- Containment boom or other equipment to contain any oil floating on the surface; and
- Dredges, pumps or other equipment to recover oil from the bottom and shoreline.

At this time, the Coast Guard does not propose the tables. The Coast Guard seeks public comment on the appropriateness of the tables for the Coast Guard's distinct regulated community and geographic areas.

EPA has documents containing information used to create their proposed tables. EPA has provided copies of these documents to us to include in the Coast Guard docket. EPA has cited these documents in the notice of denial of petition to amend the facility response plan rule [62 FR 54508 (October 20, 1997)] and in their NPRM on Oil Pollution Prevention and Response at Non-Transportation-Related Facilities published elsewhere in today's **Federal Register**.

TABLE 1.—REMOVAL CAPACITY PLANNING

Spill location	Rivers and canals			Nearshore/inland Great Lakes		
Sustainability of on-water oil recovery	3 days			4 days		
Specific gravity (S.G.) of AF/VO oil	Percent natural loss	Percent recovered floating oil	Percent recovered onshore	Percent natural loss	Percent recovered floating	Percent recovered onshore
S.G.<0.8	40	15	45	50	20	30
0.8≤S.G.<1.0	20	15	65	30	20	50

TABLE 2.—EMULSIFICATION FACTORS

Specific gravity (S.G.) of AF/VO oil	Factor
S.G.<0.8	1.0
0.8≤S.G.<1.0	2.0

Planning Volume = WCD × T1 × T2;
Where
WCD = Worst case discharge volume defined in 33 CFR 1029.
T1 = Value from Table 1.
T2 = Value from Table 2.

Regulatory Evaluation

The Office of Management and Budget (OMB) has informally reviewed the proposed rule and has made a preliminary determination that the rule is not a significant regulatory action under section 3(f) of Executive Order 12866. OMB may reassess the significance depending on the comments received. This proposed rule is not significant under the regulatory policies and procedures of the Department of Transportation (44 FR 11040; February 26, 1979). A draft assessment is available in the docket for inspection or copying where indicated under **ADDRESSES.** A summary of the assessment follows:

Summary of Costs

As a result of research conducted by the Coast Guard Marine Safety Offices, the Coast Guard estimates that there are 80 fixed facilities affected by this proposed rule. This proposed rule includes three measures that impact industry. The first measure, downgrading animal fat or vegetable oil facilities from significant and substantial harm to substantial harm would not result in any additional costs to the industry. The second measure, requiring average most probable discharge planning, could result in minor additional costs to the industry by increasing the amount of information a facility has to report. The Coast Guard estimates that owners or operators of facilities will spend 4 hours changing their response plans. The additional cost per response would be $140 ($35 per hour × 4 burden hours). The total estimated annual cost for all 80 facilities would be $11,200 (80 facilities × $140 per response plan). Finally, the Coast Guard does not expect that requiring a

minimum amount of boom for fixed facilities will add any cost to the proposed rule. When planning for a WCD under current regulations, we estimate fixed animal fat and vegetable oil facilities, regardless of their classification, already identify in their response plans the greater of 1,000 feet or twice the length of the longest vessel that regularly conducts operations at the facility of boom, that can be deployed on scene within one hour of an incident. Therefore, the Coast Guard estimates that 100 percent of the regulated, fixed facilities already meet this requirement.

The proposed rule would decrease costs to the government. Those facilities downgraded from significant and substantial harm to substantial harm would not need Coast Guard approval of their response plans. Therefore, the workload of Coast Guard field units would decrease.

Summary of Benefits

The proposed rule would further harmonize Federal agency regulations, formalize discharge planning for smaller and more common spills, and maintain an adequate quantity of boom at the facilities. The downgrade in classification of affected facilities to substantial harm further harmonizes Coast Guard and EPA regulations. The Coast Guard found that 28 of 31 spills (90%) of animal fats and vegetable oils were less than 1,000 gallons; 23 of 28 (82%) were less than 100 gallons. Planning for the average most probable discharge would address these smaller, more frequent spills. Finally, the Coast Guard proposes that fixed facility owners and operators have ready access to 1,000 feet of boom or twice the length of the longest vessel that regularly conducts operations at the facility. This requirement ensures that adequate boom is readily available for most discharges and that existing levels of boom are maintained.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considers whether this proposed rule, if adopted, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

An Initial Regulatory Flexibility Analysis discussing the impact of this proposed rule on small entities is available in the docket for inspection or copying where indicated under **ADDRESSES.**

The Coast Guard has identified 80 fixed animal fat and vegetable oil facilities that would be affected by this proposed rule. The proposed additional level of response planning would result in only minor additional informational reporting burdens. Each of the 80 affected facilities would incur 4 additional hours of information reporting burden. This would result in an additional cost of $140 per facility (4 hours × $35 per hour). The Coast Guard chose to require facilities to plan for AMPD spills because the spill history of these facilities shows a pattern of relatively small spill volumes.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or organization qualifies as a small entity and that this proposed rule will have a significant economic impact on your business or organization, please submit a comment to the Docket Management Facility at the address under **ADDRESSES** explaining why you think it qualifies and in what way and to what degree this proposed rule will economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), the Coast Guard wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process. If your small business or organization is affected by this rule and you have questions concerning its provisions or options for compliance, please contact the Project Development Division (G–MSR–1) at 202–267–0756.

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This proposed rule provides for a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). As defined in 5 CFR 1320.3(c) ''collection of information'' includes reporting, recordkeeping, monitoring, posting, labeling, and other, similar actions. The title and description of the respondents, and an estimate of the total annual burden follow. Included in the estimate is the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

Title: Response Plans For Marine-Transportation-Related Facilities Handling Non-petroleum Oils.

Summary of Collection: This proposed rule contains collection-of-information requirements in the following section: § 154.1220 and § 154.1225.

Need for Information: This proposed rule would require owners or operators of each facility to modify their facility response plans to plan for an AMPD of animal fats and vegetable oils.

Proposed Use of Information: The proposed use of this information is to ensure that such facilities are prepared to respond in the event of a spill incident. The information would be reviewed by the Coast Guard to assess the effectiveness of the facility response plans.

Description of the Respondents: An owner or operator of a facility that handles, stores or transports animal fats and vegetable oils.

Number of respondents: 80 facilities.

Frequency of Response: Annual.

Burden of response: 4 hours per respondent.

Estimated Total Annual burden: 320 hours.

As required by section 3507(d) of the Paperwork Reduction Act of 1995, the Coast Guard has submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of the collection of information.

The Coast Guard solicits public comment on the proposed collection of information to (1) evaluate whether the information is necessary for the proper performance of the functions of the Coast Guard, including whether the information would have practical utility; (2) evaluate the accuracy of the Coast Guard's estimate of the burden of the collection, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection on those who are to respond, as by allowing the submittal of responses by electronic means or the use of other forms of information technology.

Persons submitting comments on the collection of information should submit

their comments both to OMB and to the Docket Management Facility where indicated under **ADDRESSES** by the date under **DATES.**

Persons are not required to respond to a collection of information unless it displays a currently valid OMB control number. Before the requirements for this collection of information become effective, the Coast Guard will publish a notice in the **Federal Register** of OMB's decision to approve, modify, or disapprove the collection.

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under figure 2–1, paragraph (34)(a) and (e), of Commandant Instruction M16475.lC, this proposed rule is categorically excluded from further environmental documentation. This rule will not result in—

(a) Significant cumulative impacts on the human environment;

(b) A substantial controversy or substantial change to existing environmental conditions;

(c) Impacts which are more than minimal on properties protected under 4(f) the DOT Act, as superseded by Public Law 97–449 and section 106 of the National Historic Preservation Act; or

(d) Inconsistencies with any Federal, State, or local laws, or administrative determinations relating to the environment. ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following Executive Orders in developing this NPRM and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This proposed rule will not effect a taking of private property or otherwise have taking implications under this Order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This proposed rule will not impose, on any State, local, or tribal government, a mandate that is not required by statute and that is not funded by the Federal government.

E.O. 12988, Civil Justice Reform. This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of this Order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13045, Protection of Children from Environmental Health Risks and Safety Risks. This proposed rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 154

Fire prevention, Hazardous substances, Oil pollution, Reporting and record keeping requirements.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 154 as follows:

PART 154—FACILITIES TRANSFERRING OIL OR HAZARDOUS MATERIALS IN BULK

1. The authority citation for part 154 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j)(1)(C), (j)(5), (j)(6) and (M)(2); sec. 2, E.O. 12777, 56 FR 54757; 49 CFR 1.46.

Subpart F is also issued under 33 U.S.C. 2735.

§ 154.545 [Amended]

2. In § 154.545(e), add the words ''and subpart H'' after the words ''of subpart F''.

§ 154.1020 [Amended]

3. In § 154.1020, in the definition for *Facility that could reasonably be expected to cause significant and substantial harm*, remove all words after ''under § 154.1015(c)'' and add, in their place, the words ''and § 154.1216.''.

4. In § 154.1020, in the definition for *Facility that could reasonably be expected to cause substantial harm*, remove all words after ''under § 154.1015(b)'' and add, in their place, the words ''and § 154.1216.''.

5. Revise § 154.1210 to read as follows:

§ 154.1210 Purpose and applicability.

(a) The requirements of this subpart are intended for use in developing response plans and identifying response resources during the planning process. They are not performance standards.

(b) This subpart establishes oil spill response planning requirements for an owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils including—

(1) A fixed MTR facility capable of transferring oil in bulk, to or from a vessel with a capacity of 250 barrels or more; and

(2) A mobile MTR facility used or intended to be used to transfer oil to or from a vessel with a capacity of 250 barrels or more.

6. Add § 154.1216 to read as follows:

§ 154.1216 Facility classification.

(a) The Coast Guard classifies facilities that handle, store, or transport animal fats or vegetable oils as ''substantial harm'' facilities because they may cause substantial harm to the environment by discharging oil.

(b) The COTP may change the classification of a facility that handles, stores, or transports animal fats or vegetable oils. The COTP will consider the following factors, and any other relevant factors, before changing the classification of a facility:

(1) The type and quantity of oils handled.

(2) The spill history of the facility.

(3) The age of the facility.

(4) The public and commercial water supply intakes near the facility.

(5) The navigable waters near the facility. *Navigable waters* is defined in 33 CFR 2.05–25.

(6) The fish, wildlife, and sensitive environments.

7. Revise § 154.1220 to read as follows:

§ 154.1220 Response plan submission requirements.

(a) The owner or operator of an MTR facility identified in § 154.1216 as a substantial harm facility, shall prepare and submit to the cognizant COTP a response plan that meets the requirements of this subpart and all sections of subpart F of this part, as appropriate, except §§ 154.1015, 154.1016, 154.1017, 154.1028, 154.1035, 154.1045 and 154.1047.

(b) The owner or operator of an MTR facility classified by the COTP under § 154.1216(b) as a significant and substantial harm facility, shall prepare and submit for review and approval of the cognizant COTP a response plan that meets the requirements of this subpart and all sections of subpart F of this part, as appropriate, except §§ 154.1015, 154.1016, 154.1017, 154.1028, 154.1045 and 154.1047.

(c) In addition to the requirements in paragraph (a) of this section, the response plan for a mobile MTR facility must meet the requirements of § 154.1041 subpart F.

8. In § 154.1225, revise the section heading and paragraphs (a) introductory

text, (a)(1), (b), (c), (d), and (e) to read as follows:

§ 154.1225 Specific response plan development and evaluation criteria for fixed facilities that handle, store, or transport animal fats and vegetable oils.

(a) The owner or operator of a fixed facility that handles, stores, or transports animal fats or vegetable oils must include information in the response plan that identifies—

(1) The procedures and strategies for responding to a worst case discharge and to an average most probable discharge of an animal fat or vegetable oil to the maximum extent practicable; and

* * * * *

(b) The owner or operator of a fixed facility must make sure the equipment listed in the response plan will operate in the geographic area(s) where the facility operates. To determine if the equipment will operate, the owner or operator must—

(1) Use the criteria in table 1 and section 2 of appendix C of this part; and

(2) Consider the limitations in the area contingency plan for the COTP zone where the facility is located, including—

(i) Ice conditions;

(ii) Debris;

(iii) Temperature ranges; and

(iv) Weather-related visibility.

(c) The owner or operator of a facility that handles, stores, or transports animal fats or vegetable oils must name the personnel and list the equipment, including those specified in § 154.1240, that are available by contract or by a method described in § 154.1228(a).

(d) The owner or operator of a facility that handles, stores, or transports animal fats or vegetable oils must ensure that the response resources in paragraph (c) of this section are able to effectively respond to an incident within the amount of time indicated in the following table, unless otherwise specified in § 154.1240:

	Tier 1 (hrs.)	Tier 2	Tier 3
Higher volume port area	6	N/A	N/A
Great Lakes	12	N/A	N/A
All other river and canal, inland, nearshore, and offshore areas	12	N/A	N/A

(e) The owner or operator of a facility that handles, stores, or transports animal fats or vegetable oils must—

(1) List in the plan the personnel and equipment that the owner or operator will use to fight fires.

(2) If there is not enough equipment or personnel located at the facility, arrange by contract or a method described in § 154.1228(a) to have the necessary personnel and equipment available to fight fires.

(3) Identify an individual located at the facility who will work with the fire department on fires, involving an animal fat or vegetable oil. The individual—

(i) Verifies that there are enough trained personnel and operating equipment within a reasonable distance to the incident to fight fires.

(ii) Can be the qualified individual defined in § 154.1020 or an appropriate individual located at the facility.

* * * * *

9. Add § 154.1240 to subpart H to read as follows:

§ 154.1240 Specific requirements for animal fats and vegetable oils facilities that could reasonably be expected to cause substantial harm to the environment.

(a) The owner or operator of a facility, classified under § 154.1216 as a facility that could reasonably expect to cause substantial harm to the environment, must submit a response plan that meets the requirements of § 154.1035, except as modified by this section.

(b) The plan does not need to list the facility or corporate organizational structure that the owner or operator will use to manage the response, as required by § 154.1035(b)(3)(iii).

(c) The owner or operator must ensure and identify, by contract or a method described in § 154.1228, that the response resources required under § 154.1035(b)(3)(iv) are available.

(d) For a fixed facility, the owner or operator must also identify—

(1) By contract, at least 1,000 feet of containment boom or two times the length of the longest vessel that regularly conducts operations at the facility, whichever is greater, and the means of deploying and anchoring the boom within 1 hour of an incident. Based on site-specific or facility-specific information, the COTP may require the facility owner or operator to make available additional quantities of containment boom within 1 hour of an incident;

(2) Adequate sorbent material located at the facility;

(3) Oil recovery devices and recovered oil storage capacity capable of being at the incident's site within 2 hours of an incident; and

(4) Other appropriate equipment necessary to respond to an incident involving the type of oil handled.

(e) For a mobile facility, the owner or operator must also—

(1) Meet the requirements of § 154.1041;

(2) Have at least 200 feet of containment boom and the means of deploying and anchoring the boom within 1 hour of an incident. Based on site-specific or facility-specific information, the COTP may require the facility owner or operator to make available additional quantities of containment boom within 1 hour of an incident;

(3) Have adequate sorbent material capable of being at the site of an incident within 1 hour of its discovery;

(4) Oil recovery devices and recovered oil storage capacity capable of being at incident's site within 2 hours of an incident; and

(5) Other equipment necessary to respond to an incident involving the type of oil handled.

Dated: March 24, 1999.

J.C. Card,

Vice Admiral, U.S. Coast Guard, Acting Commandant.

[FR Doc. 99–8274 Filed 4–2–99; 12:33 pm]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 112

[FRL–6319–1]

RIN 2050–AE64

Oil Pollution Prevention and Response; Non-Transportation-Related Facilities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and advance notice of proposed rulemaking.

SUMMARY: EPA proposes to amend the Facility Response Plan (FRP) requirements in the Oil Pollution Prevention and Response regulation,

found at 40 CFR part 112 and promulgated under the Clean Water Act, for non-transportation-related facilities. The main purpose of this proposed rule is to provide a more specific methodology for planning response resources that can be used by owners or operators of facilities that handle, store, or transport animal fats and vegetable oils. EPA is issuing this proposed rule in response to Public Law 105–276, October 18, 1998, which requires EPA to issue regulations amending 40 CFR part 112 to comply with the Edible Oil Regulatory Reform Act. In addition, EPA is providing an advance notice for similar revisions that will be proposed for the Spill Prevention, Control, and Countermeasure Plan requirements, also found at 40 CFR part 112.

DATES: Send your comments on or before May 10, 1999.

ADDRESSES:

Comments: Address your comments on the proposed FRP rule to the Superfund Docket, Docket Number SPCC–9P, mail code 5203G, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Address your comments on the advance notice of proposed rulemaking for the Spill Prevention, Control, and Countermeasure (SPCC) rule to the Superfund Docket, Docket Number SPCC–10P, mail code 5203G, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Send three copies of your comments. You also may submit electronic comments in ASCII format to superfund.docket@epamail.epa.gov.

Docket: You may review materials concerning this rulemaking in the Superfund Docket, Suite 105, 1235 Jefferson Davis Highway, Crystal Gateway I, Arlington, VA 22202. You may inspect the docket (Docket Number SPCC–9P and SPCC–10P) between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Federal holidays; and you may make an appointment to review the docket by calling 703–603–9232.

You may copy a maximum of 266 pages from any regulatory docket at no cost. If the number of pages copied exceeds 266, however, you will be charged an administrative fee of $25 and a charge of $0.15 per page for each page after 266. The docket will mail materials to you if you are outside of the Washington, DC metropolitan area.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Oil Program Center, U.S. Environmental Protection Agency, at 703–603–8823 (davis.barbara@epamail.epa.gov) concerning the FRP proposed rule; or Hugo Fleischman, Oil Program Center, U.S. Environmental Protection Agency, at 703–603–8769 (fleischman.hugo@epamail.epa.gov) concerning the advance notice of proposed rulemaking for the SPCC rule; or the RCRA/Superfund Hotline at 800–424–9346 (in the Washington, DC metropolitan area, 703–412–9810). The Telecommunications Device for the Deaf (TDD) Hotline number is 800–553–7672 (in the Washington, DC metropolitan area, 703–412–3323).

SUPPLEMENTARY INFORMATION: We organized the contents of this Preamble in the following outline:

I. Introduction
  A. Regulated Entities
  B. Statutory Authority
  1. The Oil Pollution Act of 1990 and the Clean Water Act
  2. Edible Oil Regulatory Reform Act
  3. Appropriations Act
  C. Background of this Rulemaking
  1. The Agency's Jurisdiction
  2. Coordination with the United States Coast Guard
  3. 1994 Final Facility Response Plan Rule
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  1. Petition for Reconsideration
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II. Request for Comment and Discussion of Proposed Revisions
  A. Request for Comment
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  1. Section 112.2 Definitions
  2. Section 112.20(a)(4) Preparation and Submission of Facility Response Plans for Animal Fat and Vegetable Oil Facilities
  3. Section 112.20(f) Facility Classification
  4. Section 112.20(h)(5) Response Planning Levels
  5. Other Changes
  6. Appendix E, Section 1.2 Definitions
  7. Appendix E, Section 3.0 Determining Response Resources Required for Small Discharges—Petroleum Oils and Non-petroleum Oils Other than Animal Fats and Vegetable Oils
  8. Appendix E, Section 4.0 Determining Response Resources Required for Medium Discharges—Petroleum Oils and Non-petroleum Oils Other than Animal Fats and Vegetable Oils
  9. Appendix E, Section 6.0 Determining the Appropriate Amount of Response Equipment
  10. Appendix E, Section 7.0 Calculating Planning Volumes for a Worst Case Discharge—Petroleum Oils and Non-petroleum Oils Other than Animal Fats and Vegetable Oils
  11. Appendix E, Section 8.0 Determining Response Resources Required for Small Discharges—Animal Fats and Vegetable Oils
  12. Appendix E, Section 9.0 Determining Response Resources Required for Medium Discharges—Animal Fats and Vegetable Oils
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  C. Advance Notice of Proposed Rulemaking
III. Bibliography
IV. Regulatory Analyses
  A. Executive Order 12866: OMB Review
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  F. Paperwork Reduction Act
  G. Unfunded Mandates
  H. National Technology Transfer and Advancement Act
V. Appendices to the Preamble

I. Introduction

A. Regulated Entities

Entities Potentially Regulated by this Proposal Include:

Category	NAICS codes
Starch and Vegetable Fats and Oils Manufacturing	NAICS 31122.
Warehousing and Storage	NAICS 493.
Petroleum and Coal Products Manufacturing	NAICS 324.
Petroleum Bulk Stations and Terminals	NAICS 42271.
Crude Petroleum and Natural Gas Extraction	NAICS 211111.
Transportation, Pipelines, and Marinas	NAICS 482–486/488112–48819/4883/48849/492/71393.
Electric Power Generation, Transmission, and Distribution	NAICS 2211.
Other Manufacturing	NAICS 31–33.
Gasoline Stations/Automotive Rental and Leasing	NAICS 4471/5321.
Heating Oil Dealers	NAICS 454311.
Coal Mining, Non-Metallic Mineral Mining and Quarrying	NAICS 2121/2123/213114/213116.
Heavy Construction	NAICS 234.

Category	NAICS codes
Elementary and Secondary Schools, Colleges	NAICS 6111–6113.
Hospitals/Nursing and Residential Care Facilities	NAICS 622–623.
Crop and Animal Production	NAICS 111–112.

This table is not exhaustive, but rather it provides a guide for you. Other types of entities not listed in the table could also be subject to the regulation. To determine whether this action affects your facility, you should carefully examine the criteria in § 112.1 and § 112.20 of title 40 of the Code of Federal Regulations. If you have questions regarding the applicability of this action to a particular facility, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

B. Statutory Authority

1. The Oil Pollution Act of 1990 and the Clean Water Act

Congress enacted the Oil Pollution Act (OPA) (Public Law 101–380) to expand oil spill prevention and preparedness activities, improve response capabilities, ensure that shippers and oil companies pay the costs of spills that do occur, provide an additional economic incentive to prevent spills through increased penalties and enhanced enforcement, establish an expanded research and development program, and establish a new Oil Spill Liability Trust Fund, administered by the U.S. Coast Guard (USCG). Section 4202(a) of OPA amends the Clean Water Act (CWA) section 311(j) to require regulations for owners or operators of facilities to prepare and submit ''a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance'' (i.e., a facility response plan or FRP). This requirement applies to any offshore facility and to any onshore facility that, ''because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone'' (i.e., a ''substantial harm'' facility).

Section 311(j)(1)(C) of the CWA authorizes the President to issue regulations establishing procedures, methods, equipment, and other requirements to prevent discharges of oil from vessels and facilities and to contain such discharges. By Executive Order 12777 (56 FR 54757, October 22, 1991), the President has delegated to EPA the authority to regulate non-transportation-related onshore facilities under sections 311(j)(1)(C) and 311(j)(5) of the CWA. The President has delegated similar authority over transportation-related onshore facilities, deepwater ports, and vessels to the U.S. Department of Transportation (DOT). Within DOT, the USCG is responsible for developing requirements for vessels and marine transportation-related facilities.

2. Edible Oil Regulatory Reform Act

Congress enacted the Edible Oil Regulatory Reform Act (EORRA) (33 U.S.C. 2720) on November 20, 1995. Under this law, EPA must, in the issuance or enforcement of any regulation or the establishment of any interpretation or guideline relating to the transportation, storage, discharge, release, emission, or disposal of a fat, oil, or grease, differentiate among and establish separate classes for animal fats and oils and greases, fish and marine mammal oils, and oils of vegetable origin (as opposed to petroleum and other oils and greases).

3. Appropriations Act

Under the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105–276), which was signed into law on October 21, 1998, Congress directed EPA to issue regulations amending 40 CFR part 112 not later than March 31, 1999, to comply with the requirements of the Edible Oil Regulatory Reform Act (Public Law 104–55).

C. Background of this Rulemaking

1. The Agency's Jurisdiction

The Memorandum of Understanding (MOU) between DOT and EPA, dated November 24, 1971, established the definitions of non-transportation-related facilities and transportation-related facilities. The definitions in the 1971 MOU are in Appendix A to 40 CFR part 112.

2. Coordination with the United States Coast Guard

EPA and the USCG are proposing to modify their existing FRP rules for non-transportation-related facilities and marine transportation-related facilities that handle, store, and transport animal fats and vegetable oils. The two agencies have worked together closely to ensure uniformity in the proposed regulations whenever possible. Each agency is proposing requirements appropriate to the universe of facilities that it regulates. The two proposed rules reflect the similarities and differences in the nature and activities of facilities regulated by the two agencies. In EPA's proposed rule, the discussion of the rationale for revisions addresses the similarities and differences between EPA-regulated and USCG-regulated facilities.

3. 1994 Final Facility Response Plan Rule

On February 17, 1993, EPA (''we'') published a proposed rule to revise the Oil Pollution Prevention Regulation, which was originally promulgated under the Clean Water Act (58 FR 8824, February 17, 1993). We received a total of 1282 comments on the proposed rule. We considered these comments in developing the final rule. On July 1, 1994, we published the final FRP rule amending 40 CFR part 112 to add new planning requirements for worst case discharges to implement section 311(j)(5) of the CWA, as amended by OPA (59 FR 34070, July 1, 1994). Under the authority of section 311(j)(1)(C) of the CWA, we also required planning for small and medium discharges of oil, as appropriate.

a. The Clean Water Act applies to non-petroleum oils. In the Preamble to the final FRP rule, we noted that for the purpose of CWA section 311(j) planning, the CWA includes non-petroleum oils. We pointed out that the definition of ''oil'' in the CWA includes oil of any kind (40 CFR part 112.2). The oils regulated by 40 CFR part 112 include animal fats and vegetable oils.

b. Different rule requirements for non-petroleum oils. The FRP rule requires certain facility owners and operators to prepare plans for responding to a worst case discharge of oil and to a substantial threat of such a discharge. It also includes requirements to plan for a small and medium discharge of oil.

In addressing comments on the proposed FRP rule, we agreed that certain response equipment and strategies used for petroleum oil spills may be inappropriate for non-petroleum oil. For non-transportation-related facilities under our jurisdiction, we adapted the USCG approach to

determine response resources for worst case discharges of non-petroleum oils. Owners or operators of these facilities must: (1) Show procedures and strategies for responding to the maximum extent practicable to a worst case discharge; (2) show sources of equipment and supplies necessary to locate, recover, and mitigate discharges; (3) demonstrate that the equipment identified will work in the conditions expected in the relevant geographic areas, and that the equipment and other resources will be able to respond within the required times (according to Table 1 of Appendix E to part 112); and (4) ensure the availability of required resources by contract or other approved means. Unlike petroleum oil facilities, owners or operators of non-petroleum facilities are not limited to using emulsification or evaporation factors in Appendix E (the Equipment Appendix) of the final rule to calculate response resources for their facilities. In the final FRP rule, we added Section 7.7 to Appendix E to reflect these changes. We stated that when there were results from research on such factors as emulsification or evaporation of non-petroleum oil, we might make additional changes (59 FR 34088, July 1, 1994). Based on our examination of recent research, we are today proposing these factors for animal fats and vegetable oils.

D. FRP-Related Petitions

1. Petition for Reconsideration

By a letter dated August 12, 1994, we received a ''Petition for Reconsideration and Stay of Effective Date'' of the OPA-mandated final FRP rule as the rule applies to facilities that handle, store, or transport animal fats or vegetable oils. The petition was submitted on behalf of seven agricultural organizations (''the Petitioners''): the American Soybean Association, the Corn Refiners Association, the National Corn Growers Association, the Institute of Shortening & Edible Oils, the National Cotton Council, the National Cottonseed Products Association, and the National Oilseed Processors Association.

a. Petitioners' request. To support their claims, the Petitioners submitted an industry-sponsored report titled ''Environmental Effects of Releases of Animal Fats and Vegetable Oils to Waterways'' (ENVIRON Corporation, 1993) and an associated study titled ''Diesel Fuel, Beef Tallow, RBD Soybean Oil and Crude Soybean Oil: Acute Effects on the Fathead Minnow, *Pimephales Promelas*'' (Aqua Survey, Inc., 1993). We received copies of both of these studies with a comment filed more than nine months after the close of the comment period for the FRP rulemaking. Based, in part, on these studies, the Petitioners asked us to create a regulatory regime for response planning for ''non-toxic,'' non-petroleum oils separate from the framework established for petroleum oils and ''toxic'' non-petroleum oils. They suggested specific language revisions for the July 1, 1994, FRP rule. For facilities that handle, store, or transport animal fats and vegetable oils, their suggested revisions would: modify the definition of animal fats and vegetable oil (set out in Appendix E, Section 1.2 of the FRP rule); allow mechanical dispersal and ''no action'' options to be considered in lieu of the oil containment and recovery devices otherwise specified for response to a worst case discharge; require the use of containment booms only for the protection of fish and wildlife and sensitive environments; and increase the required on-scene arrival time for response resources at a spill from 12 hours (including travel time) to 24 hours plus travel time for medium discharges and worst case Tier 1 response resources.

b. Federal agency findings. The Federal natural resource trustee agencies who reviewed the ENVIRON study disagreed with many of the study's conclusions. The U.S. Fish and Wildlife Service (FWS) stated that the ENVIRON Report did not provide an accurate assessment of the dangers that non-petroleum oils pose to fish and wildlife and environmentally sensitive areas. The FWS further stated that key facts were misrepresented, incomplete, or omitted in the ENVIRON Report (U.S. Department of the Interior, Fish & Wildlife Service, 1994). The FWS stated that petroleum oils and vegetable oils and animal fats cause chronic effects from the fouling of coats and plumage in wildlife, which often leads to death. The National Oceanic and Atmospheric Administration (NOAA) also reviewed the ENVIRON study. NOAA evaluated the physical and chemical properties, toxicity, and environmental effects of spilled non-petroleum oils, including coconut, corn, cottonseed, fish, and palm oil, and indicated that some edible oils, when spilled, may have adverse environmental effects (U.S. Department of Commerce, National Oceanic and Atmospheric Administration, 1993). The views of the FWS and NOAA on the adverse effects of animal fats and vegetable oils are discussed in detail in the Preamble to the USCG final rule setting forth response plan requirements for marine transportation-related facilities (61 FR 7890, February 29, 1996); in our Notice and Request for Data (59 FR 53742, October 26, 1994); and in our Denial of Petition Requesting Amendment of the Facility Response Plan (62 FR 54508, October 20, 1997). We also discussed comments from a bird rescue organization describing the harmful effects of spilled animal fats and vegetable oils on birds (Frink, 1994).

In view of the differing scientific conclusions reached by the Petitioners, the FWS, and other groups and agencies, we asked for broader public comment on issues raised by the Petitioners in our October 26, 1994 Notice and Request for Data. We asked whether we should have different specific response approaches for releases of animal fats and vegetable oils (rather than increased flexibility), and for additional data and comments on the effects on the environment of releases of these oils. We also asked commenters to provide specific data comparing the properties and effects of petroleum and non-petroleum oils. We received fourteen comments and considered them in our evaluation of the petition. We did not receive any new data on these issues.

c. Denial of petition. On October 20, 1997, EPA denied the petition to amend the FRP rule. We found that the petition did not substantiate claims that animal fats and vegetable oils differ from petroleum oils in properties and effects and did not support a further differentiation between these groups of oils under the FRP rule. Instead, we found that a worst case discharge or substantial threat of discharge of animal fats and/or vegetable oils to navigable waters, adjoining shorelines, or the exclusive economic zone could reasonably be expected to cause substantial harm to the environment, including wildlife that may be killed by the discharge. We pointed out that the FRP rule already provides for different response planning requirements for petroleum and non-petroleum oils, including animal fats and vegetable oils.

We also disagreed with Petitioners' claim that animal fats and vegetable oils are non-toxic when spilled into the environment and should be placed in a separate category from other ''toxic'' non-petroleum oils. Information and data we reviewed from other sources indicate that some animal fats and vegetable oils, their components, and degradation products are toxic. Furthermore, we emphasized that toxicity is only one way that oil spills cause environmental damage. Most immediate environmental effects are physical effects, such as coating animals

and plants with oil, suffocating aquatic organisms from oxygen depletion, and destroying food supply and habitats. We noted that toxicity is not one of the criteria in determining which on-shore facilities are high-risk and must prepare response plans. Rather, the criteria for determining high-risk facilities are certain facility and locational characteristics, because we expect that discharges of oil from facilities with these characteristics may cause substantial harm to the environment.

2. Differentiating Animal Fats and Vegetable Oils From Other Oils

a. Properties of animal fats and vegetable oils. Petroleum oils, vegetable oils and animal fats, and other non-petroleum oils share common physical properties and produce similar environmental effects. When spilled in the aquatic environment, these oils and their constituents can float on water; dissolve or form emulsions in the water column; settle on the bottom as a sludge; or contaminate the adjacent shoreline, depending on their physical and chemical properties. Similar methods of removal and cleanup are used to reduce the harm created by spills of petroleum oils, animal fats and vegetable oils, and other non-petroleum oils. We have compared the properties and effects of animal fats and vegetable oils with petroleum oils in detail (See 62 FR 54508, October 20, 1997, and supporting technical documents). While the physical and chemical properties of vegetable oils and animal fats are highly variable, most fall within a range that is similar to the physical parameters for petroleum oils. Common properties—such as solubility, specific gravity, and viscosity—are responsible for the similar environmental effects of petroleum oils, vegetable oils, and animal fats.

In one respect, however, many petroleum oils differ from most vegetable oils and animal fats. Unlike most vegetable oils and animal fats, many petroleum oils have a high vapor pressure. The high vapor pressure of petroleum oils can lead to significant evaporation from spills. It may also produce exposure of nearby populations through the air pathway.

We describe some important properties of oil below.

Solubility. Solubility refers to the ability of a chemical to dissolve in water or solvents. Like petroleum oils, vegetable oils and animal fats have limited water solubility and high solubility in organic solvents.

Specific Gravity. Specific gravity is the ratio of the density of a material to the density of fresh water. Specific gravity determines whether an oil floats on the surface of a water body or sinks below the surface and how long oil droplets reside in the water. It can also give a general indication of other properties of the oil. For example, oils with a low specific gravity tend to be rich in volatile components and are highly fluid (International Tanker Owners Pollution Federation, 1987). The specific gravity of vegetable oils and animal fats whose properties we examined is within the range of specific gravity values for petroleum oils.

Viscosity. Viscosity refers to the resistance to flow. It controls the rate at which oil spreads on water and how deeply it penetrates the shore. Viscosity also determines how much energy organisms need to overcome resistance to their movement. At similar temperatures, the dynamic viscosity (shear stress/rate of shear) and kinematic viscosity (dynamic viscosity/density) of vegetable oils and animal fats are somewhat greater than those for light petroleum oils but less than those for heavy petroleum oils. The viscosity of canola oil represents a medium weight oil and is comparable to that of a lightly weathered Prudhoe Bay crude oil after it has evaporated by 10 percent (Allen and Nelson, 1983).

Vapor Pressure. Vapor pressure is the pressure that a solid or liquid exerts in equilibrium with its own vapor depending on temperature. It controls the evaporation rate of an oil spill and air concentrations. The higher the vapor pressure of an oil, the faster it evaporates. Vapor pressure varies over a wide range for petroleum oils, from moderately volatile diesel-like products to slightly volatile heavy crude oils and residual products. The vapor pressure of animal fats and vegetable oils is generally much lower than that of many petroleum oils. Evaporation is significant for many petroleum oil spills, some of which completely evaporate in one to two days, but it is rarely an important factor in spills of vegetable oils and animal fats. In some vegetable oils, however, there is a small volatile fraction that can evaporate. Thermal decomposition can also cause the formation of many volatile degradation products.

Surface Tension. The spreading of oil relates to surface tension (interfacial tension) in a complex manner. When the sum of the oil-water and oil-air interfacial tensions is less than the water-air interfacial tension, spreading is promoted. At 25 °C, the oil-water interfacial tension for canola oil is far less than that of Prudhoe Bay crude oil, suggesting that canola oil could spread more (Allen and Nelson, 1983). Surface tension measurements in the laboratory, however, are not necessarily predictive of the behavior of oil that is being transformed by many processes in the environment.

Emulsions. Emulsions are fine droplets of liquid dispersed in a second, immiscible liquid. When oil and water mix vigorously, they form a dispersion of water droplets in oil and oil droplets in water (Hui, 1996c). When mixing stops, the phases separate. Small water drops fall toward the interface between the phases, and the oil drops rise. The emulsion breaks. When an emulsifier is present, one phase becomes continuous, while the other remains dispersed. The continuous phase is usually the one in which the emulsifier is soluble.

The tendency of petroleum and non-petroleum oils to form emulsions of water-in-oil or oil-in-water depends on the unique chemical composition of the oil as well as temperature, the presence of stabilizing compounds, and other factors. When an emulsion is formed in the environment, the oil changes appearance and its viscosity can increase by many orders of magnitude. Removal of the oil becomes harder because of the increased difficulty in pumping viscous fluids with up to fivefold increases in volume.

The similar tendencies for formation of emulsions by petroleum oils, vegetable oils, and animal fats is described in greater detail in the discussion of Appendix E, Section 10 and Table 7.

Adhesions. Although the ability to form adhesions is difficult to measure and predict, adhesions influence the ease with which spilled oil can be physically removed from surfaces. When water is colder than the oil pour point, oils become viscous and tar-like or form semi-solid, spherical particles that are difficult to recover. Weathering and evaporation are slowed, and oils may become entrapped or encapsulated in ice and later may float on the surface when ice breaks up. In ice adhesion tests, canola oil and Prudhoe Bay crude oil had the same tendency to coat the surface of sea ice drawn up through an oil/water interface (Allen and Nelson, 1983). Neither oil adhered to submerged sea ice even after surface coating. This study suggests that some vegetable oils and petroleum oils have a similar ability to form adhesions under certain environmental conditions.

b. Environmental effects. Physical contact, destruction of food sources, and toxic contamination produce the harmful environmental effects of spills of petroleum oils, animal fats and vegetable oils, and non-petroleum oils other than animal fats and vegetable oils

(62 FR 54508, October 20, 1997). Nearly all of the most immediate and devastating environmental effects from oil spills, such as smothering of fish or coating of birds and mammals and their food with oil, are physical effects related to the physical properties of oils and their interactions with living systems.

These immediate physical effects and effects on food sources may not be considered the result of ''toxicity'' in the classic sense—i.e., effects that are produced when a chemical reacts with a specific receptor site of an organism at a high enough concentration for a sufficient length of time. Nevertheless, severe debilitation and death of fish and wildlife and destruction of their habitats can result from spills of animal fats and vegetable oils, other non-petroleum oils, and petroleum and petroleum products.

Like petroleum oils, animal fats and vegetable oils and their constituents can cause toxic effects that are summarized below. They can:

- Cause devastating physical effects, such as coating animals and plants with oil and suffocating them by oxygen depletion;
- Be toxic and form toxic products;
- Destroy future and existing food supply, breeding animals, and habitat;
- Produce rancid odors;
- Foul shorelines, clog water treatment plants, and catch fire when ignition sources are present; and
- Form products that linger in the environment for many years.

Adverse environmental effects can also occur long after the initial exposure to animal fats and vegetable oils because of the formation of toxic or persistent products in the environment, destruction of food sources and habitat, or diminished reproduction.

Scientific research and experience with actual spills have shown that spills of animal fats and vegetable oils kill or injure fish, birds, mammals, and other species and produce other undesirable effects. Waterfowl and other birds, mammals, and fish that are coated with animal fats or vegetable oils can die of hypothermia, dehydration and diarrhea, or starvation. They can also sink and drown or fall victim to predators. Fish and other aquatic organisms may suffocate because of the depletion of oxygen caused by spilled animal fats and vegetable oils in water. Animal fats and vegetable oils can kill or injure wildlife through physical effects or toxicity.

Spills of animal fats and vegetable oils have the same or similar devastating impacts on the aquatic environment as petroleum oils. Reports of real-world oil spills detail the environmental harm that can be produced by spills of vegetable oils and animal fats into the environment (62 FR 54508, October 20, 1997).

c. Toxicity. Adverse effects occur through both non-toxic and toxic mechanisms. Toxicity refers to adverse effects that are produced when a chemical reacts with a specific receptor site of an organism at a high enough concentration for a sufficient length of time. Toxicity is affected by the characteristics of the organisms and properties of the chemicals or mixtures involved, the duration of exposure and dose required to produce the effects, and the nature of the toxic effects (Klaassen et al., 1986).

Many factors determine the toxicity of chemicals or mixtures. The ingestion of small quantities of animal fats and vegetable oils in food by humans and animals is a completely different situation from spills of oil into the environment. These situations differ markedly in the extent and duration of exposure, the route of exposure, the composition of the chemicals involved, the organisms and ecosystems exposed, the circumstances surrounding the exposure, and the types of effects produced—factors that determine the toxicity and severity of the adverse effects of chemicals. Thus, even if the human or animal consumption of small quantities of oils in food were judged completely safe, no inferences could be drawn about the toxicity and other effects of animal fats and vegetable oils on environmental organisms exposed in the very different circumstances of oil spills.

The toxic effects from acute exposure to a chemical (e.g., a single dose) during a short period of time, such as 24 hours, may differ greatly from those produced by repeated or chronic exposures. Oil spills may result in chronic exposure if oil or its degradation products remain in the environment for a long time.

Petroleum Oils. Petroleum oils affect nearly all aspects of physiology and metabolism and produce impacts on numerous organ systems of plants and animals, as well as altering local populations, community structure, and biomass (Albers, 1995; National Academy of Sciences, 1985; International Agency for Research on Cancer, 1984). Commonly reported individual effects of petroleum oils include impaired reproduction and reduced growth, as well as death in plants, fish, birds, invertebrates, reptiles, and amphibians; blood, liver, and kidney disorders in fish, birds, and mammals; malformations in fish and birds; altered respiration or heart rate in invertebrates, fish, reptiles, and amphibians; altered endocrine function in fish and birds; altered behavior in many animal species; hypothermia in birds and mammals; impaired salt gland function in birds, reptiles, and amphibians; altered photosynthesis in plants; and increased cells in gills and fin erosion in fish. Among the group effects of petroleum are changes in local population and community structure in plants, invertebrates, and birds, and changes in biomass of plants and invertebrates.

Certain petroleum products and crude oil fractions are associated with increased cancer in refinery workers and laboratory animals (IARC, 1989). Many of these petroleum oils contain benzene and polynuclear aromatic hydrocarbons (PAHs), toxic constituents that are carcinogenic in humans and animals.

Vegetable Oils and Animal Fats. Some acute lethality tests suggest that petroleum oils are more toxic to some aquatic species than certain vegetable oils and animal fats. Other studies, however, show that vegetable oils are more toxic than certain petroleum oils (62 FR54508, October 20, 1997). In one study, no rats receiving mineral oil died, although smaller doses of the vegetable oils administered for a shorter time period killed rats (Boyd, 1973). Acute lethality tests are typically LC_{50} (lethal concentration 50) or LD_{50} (lethal dose 50) tests that do not describe a ''safe'' level but rather a level at which 50 percent of test organisms are killed under the experimental conditions of the test. Standard acute toxicity tests are not designed to test for the effects of spills of highly insoluble materials, such as oils, but to measure the toxicity of chemicals in normal use and disposal in effluents. Researchers have raised serious questions about the relevance of such tests to spills in the environment (NAS, 1985).

Animal fats and vegetable oils produce other types of acute toxicity as well. Like petroleum oils, animal fats and vegetable oils are laxatives that can produce diarrhea or lipid pneumonia in animals and can impair their ability to escape predators (Frink, 1994; USDOI/FWS, 1994). Clinical signs of toxicity in rats fed large amounts of corn oil or cottonseed oil for 4 or 5 days include decreased appetite, loss of body weight, diarrhea, fur soiling, incoordination, cyanosis (dark blue skin color from deficient oxygenation of the blood), and prostration, followed by respiratory failure and central nervous system depression, coma, and death (Boyd, 1973). Autopsies showed violent local irritation of the gastrointestinal tract

that allowed the absorption of oil droplets into the bloodstream. In tissues, the oil droplets produced inflammation, congestion in the blood vessels, and degenerative changes in the kidney, among other effects.

Animals exposed to vegetable oils and animal fats can manifest a range of chronic toxic effects. High levels of some types of fats increase growth and obesity but cause early death in several species of animals and may decrease their reproductive ability or the survival of offspring (NAS/NRC, 1995; French et al., 1953). On the other hand, the growth of some fish decreases with elevated levels of oils (NAS/NRC, 1981, 1983; Takeuchi and Watanabe, 1979; Stickney and Andrews, 1971, 1972). Mussels exposed to one of four vegetable oils began to die after 2 or 3 weeks of exposure (Salgado, 1995; Mudge, 1995, 1997a). Mussels exposed to low levels of sunflower oil exhibited growth inhibition, effects on shells and shell lining, and decreases in the foot extension activity that is essential to survival.

Studies have associated dietary fat consumption with the increased incidence of some types of cancer, including mammary and colon cancer, in laboratory animals and humans (Hui, 1996a; US Department of Health and Human Services, 1990; Food and Agriculture Organization/World Health Organization, 1994). The intake of dietary fat or certain types of fat has also been correlated with the incidence of coronary artery disease, diabetes, and obesity in epidemiological studies. High dietary fat intake has also been linked to altered immunity, changes in steroid excretion, and effects on bone modeling and remodeling in humans.

Some vegetable oils and animal fats contain toxic constituents, including specific fatty acids and oxidation products formed by processing, heating, storage, or reactions in the environment (Hui, 1996a; Berardi and Goldblatt, 1980; Yannai, 1980; Mattson, 1973). We have summarized the toxic effects of some of these constituents on the heart, red blood cells, and immune system, as well as effects on metabolism and impairment of reproduction and growth (62 FR 54508, October 20, 1997). In addition, some lipid oxidation products may play a role in development of cancer and atherosclerosis.

d. How properties and effects of oils are changed in the environment. The physical and chemical properties of petroleum and non-petroleum oils can change after spills into the environment (USDOC/NOAA, 1992, 1996; Lewis et al., 1995; ITOPF, 1987; NAS, 1985; Hui, 1996a). Primary weathering processes that affect the composition of oil include spreading, evaporation, dissolution, dispersion, emulsification, and sedimentation (USDOC/NOAA, 1992, 1994, 1996). Wind transport, photochemical degradation, and microbial degradation may also play important roles. These processes can change the composition, behavior, routes of exposure, persistence, and toxicity of the spilled oil. As the spilled oil is changed by these environmental processes, its toxicity may increase, decrease, or stay the same. These changes may reduce the volume of some oils and increase the volume in other oils because of their persistence in water or ability to form emulsions. While some weathering mechanisms are different for petroleum oils and animal fats and vegetable oils, spills of all of these oils can create heavy sludges and hardened exposed surfaces with aggregates or tars that can persist in the environment for many years (USDOC/NOAA, 1994; NAS, 1985; Mudge, 1995, 1997a, 1997b).

Oil can affect different parts of the ecosystem as its composition changes. For example, when the lighter fractions of petroleum oil dissolve or evaporate, the oil sinks and contaminates sediments and contributes to water column toxicity (USDOC/NOAA, 1992; Hartung, 1995; NAS, 1985). Spilled sunflower oil forms polymers that can wash ashore or sink and cover sediments, exposing benthic and intertidal communities to the oil (Mudge et al., 1993, 1995). Spilled soybean oil can change its environmental behavior, forming rubbery floating masses that move downstream and cover sediments on the bottom of water bodies or lodge on the shoreline (Minnesota, 1963; USDHHS/PHS, 1963).

e. How properties affect removal of spilled oils. In aquatic environments, the behavior of petroleum oils and vegetable oils and animal fats is similar. They can form a layer on water, settle out on sediments, foul shorelines and beaches, and form emulsions when there is agitation by surf, wind, rapidly flowing streams, or prolonged exposure to heat or light (Crump-Wiesner and Jennings, 1975; USDOC/NOAA, 1996). When the emulsions and surface films or masses are entangled with debris, they can settle to the bottom as sludge.

Because of the similarity in properties of petroleum and non-petroleum oils, including vegetable oils and animal fats, many similar methods are used for their containment, removal from the aquatic environment, and cleanup from shorelines when the oils are spilled in the environment. Canola oil and Prudhoe Bay crude oil exhibited similar behavior in field tests with certain types of spill control equipment, including their tendency to form emulsions with seawater in cold tempera tures and their affinity for surfaces (Allen and Nelson, 1983).

Because of its greater viscosity at cold temperatures, the recovery rate for canola oil with saturated mop fibers was 30 to 40 percent greater than that of crude oil; at warm temperatures, the recovered volume of canola oil was twice that of crude oil (Allen and Nelson, 1983). While canola oil penetrated fibers of sorbent pads at a slightly slower rate than Prudhoe Bay crude oil, saturation for both occurred within minutes. The volumes absorbed and recovered from saturated pads were nearly identical for both oils, with amounts absorbed increasing with reduced temperatures.

3. Other Petitions Submitted to EPA and the USCG

On January 16, 1998, we received a request from the Animal Fat/Vegetable Oil Coalition to modify the FRP rule as it applies to facilities that handle, store, or transport vegetable oils and animal fats. We met with Coalition representatives on April 6, 1998 to clarify their request. On April 9, 1998, we received a second request amending two items in the previous request. The requests ask us to revise the FRP rule by creating a separate category for response planning for animal fat/vegetable oil facilities and a separate Appendix with procedures for these facilities. The requests also include suggested language for the revised rule. The suggested language would make the following changes for facilities that handle, store, or transport vegetable oils and animal fats:

- Move the definitions of vegetable oils and animal fats from the Preamble and Appendix E of the current FRP rule to the definitions section, and modify the language slightly;
- State the applicability dates by which facilities storing vegetable oils and animal fats would need to comply with the rule;
- Limit requirements for submitting a facility response plan;
- Change the planning distance formula used in determining whether a facility storing vegetable oils and animal fats may present substantial harm;
- Revise the criteria considered by EPA Regional Administrators in determining whether a facility is a significant and substantial harm facility;
- Increase required response time from on-scene arrival time of 12 hours including travel time to 24 hours, with

a response commencing within 12 hours of discovery of a discharge;

- Eliminate planning for small or medium discharges of oil and eliminate tier planning requirements;
- Eliminate the definitions of non-persistent and persistent oil;
- Allow mechanical dispersal and ''no action'' options to be considered in lieu of the oil containment and recovery devices otherwise specified for response for a worst case discharge; and
- Make other changes in the rule language.

We address some of these issues in detail in this proposed rule. On March 14, 1997, the National Oilseed Processors Association filed a petition with the USCG requesting similar amendments to the marine-transportation-related facility response plan regulations. To further address these petitions, EPA and the USCG are requesting comments and information on how facilities that handle animal fats and vegetable oils should be regulated.

II. Request for Comment and Discussion of Proposed Revisions

A. Request for Comment

We request public comments on the usefulness of the new procedure and tables in the proposed rule for determining response equipment needs for facilities that handle, store, or transport animal fats and vegetable oils compared to the approach provided in the existing rule. In connection with these proposed changes, we invite public comment on new approaches or data that have been developed since the issuance of the rule, which would reduce the burden of FRP rule requirements without compromising environmental protection. We are interested in research in progress or planned research on the issues raised in this rule. We also request data and comments bearing on the issues raised in the requests for changes to the existing regulations.

In addition, we invite public comments for the purpose of securing information to develop possible future rules or policies. We seek data and comments on approaches for non-petroleum oils other than animal fats and vegetable oils that are not now required, but that would enhance the environmental protection the FRP rule provides.

B. Proposed Revisions

The main purpose of these revisions is to provide a more specific methodology for planning response resources that can be used by owners or operators of facilities that handle, store, or transport animal fats and vegetable oils. Specific proposed revisions are discussed below.

1. Section 112.2 Definitions

The FRP rule defines oil as ''oil of any kind or in any form, including, but not limited to petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil.'' (40 CFR 112.2). In response to comments on our 1993 proposed FRP rule (58 FR 8866, February 17, 1993), we set forth definitions for ''animal fat,'' ''vegetable oil, '' ''petroleum oil,'' ''non-petroleum oil,'' and ''other non-petroleum oil'' in the Preamble to the final FRP rule (59 FR 34070, 34088 July 1, 1994) to assist owners or operators in distinguishing among oil types. We also define non-petroleum oil in Appendix E to the rule.

We propose to add the definitions of ''animal fat,'' ''non-petroleum oil,'' ''petroleum oil,'' and ''vegetable oil'' to the FRP regulations in § 112.2. We believe that adding these definitions to the regulatory text will help the regulated community better understand the FRP rule. We have made slight revisions to the definitions to more closely reflect the language of the 1995 Edible Oil Regulatory Reform Act. According to the proposed definitions, non-petroleum oils other than animal fats and vegetable oils would include, but are not limited to, coal tar, silicone oils, and turpentine.

2. Section 112.20(a)(4) Preparation and Submission of Facility Response Plans for Animal Fat and Vegetable Oil Facilities

The current FRP rule includes requirements for the owner or operator of a facility to prepare and submit an FRP to the RA in § 112.20(a)(1), (a)(2), and (a)(3). The proposed rule includes a new § 112.20(a)(4) that describes the requirements for the facility owner or operator to prepare and submit an FRP using the new methodology for response planning for animal fats and vegetable oils. The proposed new methodology for calculating planning volumes for worst case discharges of animal fats and vegetable oils is discussed in Appendix E, Section 10.

The proposed requirements for preparation and submission of an FRP for animal fat and vegetable oil facilities are as follows:

- If you have an approved FRP, you would not have to prepare a new plan, unless there is a planned change in design, construction, operation, or maintenance or an unplanned event or change in facility characteristics. The existing FRP would be good for the 5-year period of approval. The requirements for submitting a new plan after planned or unplanned changes or events would be the same as in the current rule.
- If you have submitted an FRP to the RA and have not received approval, you would recalculate response resources using the new methodology. The new methodology is described in detail in the discussion of Appendix E, Section 10. If your FRP does not meet or exceed the recalculated estimate of response resources, you would prepare and submit a new plan to meet this estimate within 60 days of the effective date of this rule. A new plan would not be required, however, if your existing FRP meets or exceeds the new estimate of response resources.
- If you are preparing a new FRP, you would ensure that response resources meet or exceed the estimate obtained using the new methodology. You would submit the new plan prior to the start of operations as required by the existing FRP rule.
- If you are amending your FRP, you would recalculate the response resources using the new methodology and ensure that response resources meet or exceed the new estimate. If the plan does not meet or exceed the requirements, you would submit a new plan. In the proposed rule, the time requirements for submitting a new plan remain the same as in the existing FRP rule.

3. Section 112.20(f) Facility Classification

OPA requires agencies to classify facilities for the purposes of response planning based on the facility's expected ability to cause ''substantial harm'' or ''significant and substantial harm'' to the environment in the event of a spill or discharge. In § 112.20(f)(1), we indicate two sets of criteria that define a ''substantial harm'' facility for the purposes of response planning:

- Any non-transportation-related facility that transfers oil over water to or from vessels and has a total oil storage capacity greater than or equal to 42,000 gallons; or
- Any non-transportation-related facility that has a total oil storage capacity of greater than or equal to 1 million gallons and meets at least one of the following criteria: has insufficient secondary containment to contain the capacity of the facility's largest storage container in each storage area plus precipitation; is located in proximity to fish and wildlife and sensitive environments; is located in proximity to public drinking water intakes; or has experienced an oil spill greater than or equal to 10,000 gallons within the last five years.

The owner or operator of a facility that meets one of these requirements for ''substantial harm'' must prepare and submit to the Regional Administrator (RA) a response plan, or must self-certify that the facility does not meet the requirements of the FRP regulations and maintain that self-certification on file. An RA may determine that a facility could reasonably be expected to cause ''significant and substantial harm'' to the environment by considering the facility's frequency of past spills, the age of the facility's oil storage tanks, the facility's proximity to navigable waters, and other facility and Region-specific information, including local impacts on public health. If an RA makes such a determination, the RA must notify the facility owner or operator and must review and approve the response plan upon initial receipt of the plan and at least once every five years thereafter. The RA may require amendments to any ''significant and substantial harm'' FRP that does not meet the requirements in 40 CFR part 112. An appeals process allows facility owners or operators the opportunity to challenge the RA's determination.

Currently, the owner or operator determines whether or not the facility can be considered a ''substantial harm'' facility. Then, EPA and the USCG make the initial designation of facilities as ''substantial harm'' or ''significant and substantial harm'' and can subsequently reclassify them. For all types of oils, EPA designates a facility as ''substantial harm'' initially and then determines whether the facility meets criteria for ''significant and substantial harm.'' The USCG has determined that any facility capable of transferring any type of oil to or from a vessel with a capacity of 250 barrels (10,500 gallons) or more, except for mobile facilities, could reasonably be expected to cause significant and substantial harm in the event of a discharge (33 CFR 154.1015(c)). The USCG considers non-petroleum oil facilities ''significant and substantial harm'' facilities unless they are reclassified. The USCG Captain of the Port may reclassify a facility based on certain relevant factors including, but not limited to: type and quantity of oil handled in bulk, facility spill history, age of facility, proximity to public and commercial water supply intakes, proximity to navigable waters, and proximity to sensitive environments.

EPA's response planning rules intentionally do not distinguish between types of oils for the purposes of determining ''substantial harm'' and ''significant and substantial harm.'' We have decided not to modify the ''substantial harm'' and ''significant and substantial harm'' criteria or to distinguish between types of oils for the purposes of making the designation in this proposed rule. We have come to this decision because we believe that all oils addressed in the FRP rule have the potential to produce similar effects when released into the environment. The USCG is considering revisions to its classification scheme that would make its policy on initial classification more uniform with ours by initially classifying these facilities as ''substantial harm.''

4. Section 112.20(h)(5) Response Planning Levels

a. Summary of proposed rule. In the existing FRP rule, the response plan must include a discussion of three specific planning scenarios for all oil discharges—small (2,100 gallons or less), medium (between 2,100 and 36,000 gallons, or ten percent of the capacity of the largest tank), and worst case. Although we would add separate sections for animal fats and vegetable oils, we are proposing to keep the same response planning scenarios that are required in the existing rule. We are proposing no changes in the response planning level requirements for petroleum oils and non-petroleum oils other than to create separate regulatory sections for animal fats and vegetable oils. Because we understand that at the time of a spill certain factors may exist that counter the original assumptions used during response planning, we would continue to allow case-by-case deviations when such deviations afford equivalent environmental protection. Nothing in the response planning regulations is intended to limit the actions of the owner or operator of the facility provided that those actions are in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), the Area Contingency Plan (ACP), and the Regional Contingency Plan and that the actions are approved by the Federal On-Scene Coordinator.

b. Comparison of facilities regulated by EPA and the USCG. Unlike EPA, the USCG currently requires response planning for non-petroleum oils (including animal fats and vegetable oils) at marine transportation-related facilities only for a worst case discharge. However, under 33 CFR 154.545 each facility must have ready access to enough containment material and equipment to contain any oil discharged on the water from operations at the facility. ''Access'' includes direct ownership, joint ownership, cooperative venture, or contractual agreement. The facility must establish response time limits, which are approved by the Captain of the Port, for deployment of containment material and equipment. These requirements were issued in 1980 and pre-date the OPA response planning requirements and were intended to prepare a facility for an ''operational'' discharge. The USCG proposed rule retains response planning for a worst case discharge and proposes planning for Average Most Probable Discharge that is similar to existing requirements for identifying response equipment for operational discharges.

EPA and the USCG regulate facilities with different physical activities and different response schemes to fit their environment. Each of the agencies addresses the most probable activities for the facilities under its jurisdiction. EPA's non-transportation-related facilities generally have a greater potential for large spills than USCG-regulated facilities. The worst case discharge from EPA-regulated facilities is often greater by an order of magnitude or more. EPA-regulated facilities also tend to have a larger number of oil transfers than USCG-regulated facilities, and they have a significant potential for small and medium discharges. Because of the greater diversity of structures and processes, oil can discharge in many ways over a range of volumes at EPA-regulated facilities. At these facilities, there is a wide range of activities, and many parameters can affect discharges. Causes of oil discharges at EPA-regulated facilities can include tank failure, deterioration of tanks or valves, transfer from tank cars to tank trucks, and discharges from processing units. At USCG-regulated facilities, however, discharges usually result from human error or equipment failure, such as a barge sinking, or failure of off loading lines or valves. The spill size associated with these transfer activities is determined primarily by pump rate and pipe diameter and covers a narrower range than discharge volumes at EPA-regulated facilities.

c. Rationale for planning for three response scenarios. EPA believes that discharges less severe than a worst case scenario may pose a serious threat to navigable waters, especially from the cumulative effects of several discharges, and that preparation to respond to smaller spills produces better overall protection of the nation's navigable waters. We have found that small spills of petroleum oils, vegetable oils, and animal fats oils can cause significant environmental damage (62 FR 54508, October 20, 1997). Real-world examples demonstrate that spills of animal fats and vegetable oils do occur and produce harmful environmental effects.

Various sizes of discharges can require different types and amounts of equipment, products, and personnel, and must therefore be addressed separately. For example, a facility may want to hire a contractor to support response to a worst case discharge scenario, but handle smaller, operational spills using its own personnel and equipment. To the extent that facility personnel are better able to address immediate actions associated with smaller spills, they will be better prepared to initiate a response to a worst case discharge until back-up resources arrive on-scene. Increased proficiency in handling the initial stages of a discharge can result in significant reductions in the extent of spill movement and associated impacts to the environment.

We recognize that this planning approach may not be appropriate for all facilities, including those where the range of possible spill scenarios is small. Under the proposed rule, as under the current rule, large facilities would need to plan for three discharge amounts, but a small facility may only need to plan for two scenarios or a single scenario if the worst case discharge falls within one of the specified ranges. Many commenters on the 1993 proposed FRP rule (58 FR 8824, February 17, 1993) recognized that planning for responses to more commonly occurring discharges may be more beneficial to facilities than planning for a worst case discharge with a lower probability of occurrence.

We have examined spill data for animal fats and vegetable oils to determine whether the distribution of discharge size for these oils is similar to the pattern for all oils. In the existing FRP rule, the planning volumes for discharges other than a worst case discharge are based on an analysis of Emergency Response Notification System (ERNS) data, which contains data on discharges from facilities, etc. These data showed that the average reported discharge is 1,300 gallons, and 99.5 percent of the discharges of all oils were less than approximately 36,000 gallons. The planning volume of 2,100 gallons or less for small discharges represents a realistic planning quantity. (See the Proposed FRP rule, 58 FR 8836, February 17, 1993).

In many of the ERNS records for spills, animal fats and vegetable oils could not be distinguished from other non-petroleum oils, or data on spill volume were incomplete. ERNS data for the entire U.S. show that approximately 150 oils spills each year are greater than 10,000 gallons; fewer than one percent of these larger discharges are positively identified as vegetable oil or animal fat.

We also reviewed data from the USCG's Marine Safety Information System from 1992 to 1998 and found 28 non-petroleum discharges from non-transportation-related facilities and from the non-transportation segment of a transportation facility. The size of discharges ranged from one gallon to 7,500 gallons. Most discharges (24) were less than 1,000 gallons and only 4 were greater than or equal to 1,000 gallons. Fifty percent of the discharges were less than 20 gallons and 93 percent were less than 1,500 gallons.

Other data demonstrate the occurrence of spills of animal fats and vegetable oils but do not provide estimates of spill size. Animal fats and vegetable oils were among the most frequently spilled organic materials, ranking sixth and seventh respectively, and were responsible for over 6 percent of all spills (384 of 6076 spills) of organic materials reported along the coasts and major waterways in the United States in 1973–1979 (Wolfe, 1986). Other authors estimate that at least 5 percent of all spill notifications are for vegetable oils and animal fats (Crump-Wiesner and Jennings, 1975). Of the 18,000 to 24,000 spills in the United States reported annually to the National Response Center and EPA Regions, 2 to 12 percent are from non-petroleum oils, including vegetable oils and animal fats (USEPA/OSWER, 1995, 1996).

These figures represent the minimum number of spills. It is likely that they greatly underestimate the actual number of spills because of significant underreporting. We made a comparison of reports of spills in Ohio of vegetable oil and soybean oil from January 1984 to June 1993 to the State of Ohio Environmental Protection Agency (Ohio EPA) and to the National Response Center (NRC). Only 7 of 27 reports (26 percent) to the Ohio EPA were also reported to the NRC (USEPA, 1994). There were a number of reports of vegetable and soybean oil spills to the NRC that were not on the State list (USEPA, 1994).

We have also compared spills of animal fats and vegetable oils that were reported to the State of Iowa and to the NRC between 1991 and 1996. Only 32 percent of the reports to Iowa were also reported to the NRC. Of 19 reports from fixed facilities, where the amount spilled was known, the size of discharges ranged from one gallon to 37,728 gallons. Most (13) were less than 1,000 gallons and only two were greater than 10,000 gallons.

d. Request for data and comment. Our figures on spill size suggest that the most commonly occurring discharges of animal fats and vegetable oils are small discharges. We request comment on the reliability of these data and whether these data are representative of spills of animal fats and vegetable oils at other facilities. We request that States or other parties who have data about the discharges of animal fats and vegetable oils provide this information to assist our rulemaking efforts.

In keeping with requirements of the Edible Oil Regulatory Reform Act, EPA has examined the properties and effects of classes of oils to determine how or whether to differentiate them in response planning levels. We have found that the properties and environmental effects are similar for petroleum oils, animal fats and vegetable oils, and other non-petroleum oils. We also analyzed the size of oil discharges. According to our data, the size distribution for spills of animal fats and vegetable oils is comparable to that of all other oils.

EPA solicits comments on whether it is feasible to require differentiated response planning levels for animal fats and vegetable oils. Members of the public have inquired as to whether we will modify the rule such that facilities would only be responsible for one or two planning levels instead of the three levels required in the existing rule. We presently have no basis for making this distinction in response planning levels for different classes of oils. Our existing information shows similar properties, effects, and spill size for animal fats and vegetable oils and other oils at EPA-regulated facilities. We solicit data justifying different levels of planning, such as combining small and medium discharge planning or eliminating some planning levels.

5. Other Changes

As described in the following sections, most of the proposed changes affect Appendix E to part 112, which assists facility owners and operators in determining the required FRP response resources. Some general changes include adding to the Appendix new Sections 8.0, 9.0, and 10.0 for animal fats and vegetable oils, renumbering of existing sections, and adding and renumbering definitions in Section 1.2.

6. Appendix E, Section 1.2 Definitions

a. Non-persistent oils and persistent oils. Sections 1.2.3 and 1.2.8. In the current FRP rule, the definitions of persistent and non-persistent oils rely on distillation criteria and specific gravity for petroleum oils and specific gravity for non-petroleum oils. We propose changing the definitions of

persistent and non-persistent oils to eliminate their applicability to animal fats and vegetable oils. The terms ''persistent'' and ''non-persistent'' would still apply to petroleum oils and non-petroleum oils other than animal fats and vegetable oils. The definitions would also be renumbered.

We are proposing to change these definitions because persistence or non-persistence of animal fats and vegetable oils does not depend merely on specific gravity. Instead, it depends on many environmental factors. The same oil may exhibit differing degrees of persistence in different environmental situations. In addition to the scientific imprecision of ''persistent'' and ''non-persistent'' for animal fats and vegetable oils, these terms do not determine response planning requirements for animal fats and vegetable oils in the current FRP rule or in the approach proposed in this rule.

In our evaluation of studies on the environmental fate of animal fats and vegetable oils, we found that the extent of degradation or persistence depends on many factors (62 FR 54508, October 20, 1997). Although some animal fats and vegetable oils can degrade rapidly, others persist in the environment years after the oil was spilled (Mudge et al., 1995; Mudge, 1995, 1997a, 1997b).

Every spill is different. Factors such as pH (acidity), temperature, oxygen concentration, dispersal of oil, the presence of other chemicals, soil characteristics, nutrient quantities, and populations of various microorganisms at the location of the spill profoundly influence the degradation of oil. Environmental processes can alter the chemical composition and environmental behavior of the spilled oils and influence their proximity to environmentally sensitive areas and the environmental damage they cause.

All oils can deplete oxygen and suffocate aquatic organisms. Under certain conditions, however, some animal fats and vegetable oils present a far greater risk to aquatic organisms than other oils spilled in the environment, as indicated by their greater biological oxygen demand (BOD). According to studies designed to measure the degradation of fats in wastewater, some food oils exhibit nearly twice the BOD of fuel oil and several times the BOD of other petroleum-based oils (Groenewold et al., 1982; Institute, 1985; Crump-Wiesner and Jennings, 1975). While the higher BOD of food oils is associated with greater biodegradability by microorganisms using oxygen, it also reflects the increased likelihood of oxygen depletion and suffocation of aquatic organisms under certain environmental conditions. Oil creates the greatest demand on the dissolved oxygen concentration in smaller water bodies, depending on the extent of mixing (Crump-Wiesner and Jennings, 1975). Furthermore, spilled animal fats and vegetable oils can cause long-term harm even if they remain in the environment for relatively short periods of time because they destroy existing and future food sources, reduce breeding animals and plants, and contaminate eggs and nesting habitats.

b. Definitions for groups of oils. Sections 1.2.1 and 1.2.9. We propose reclassifying the oil categories for animal fats and vegetable oils to further differentiate between classes of oils. We would add definitions of three new groups (Groups A, B, and C) for animal fats and vegetable oils. We have found that the specific gravity of most animal fats and vegetable oils falls within the range for Group 3 oils, so that we can reduce the number of categories for these oils. We are proposing to combine Groups 2, 3, and 4 into a single group (Group B) for animal fats and vegetable oils. No longer would animal fats and vegetable oils be considered Groups 1, 2, 3, 4, or 5 in our proposed rule. Rather, they would belong to Groups A, B, or C. These groups would be used in new Tables 6 and 7 in Appendix E to assist owners or operators of facilities that handle, store, or transport animal fats and vegetable oils in determining response equipment needs.

The groups of oils are based on the specific gravity of the animal fats and vegetable oils. Most of the common vegetable oils and animal fats found in commerce will be classified in Group B with a specific gravity greater than or equal to 0.8 but less than 1.0. Group A substances are defined as having a specific gravity of less than 0.8 and will include a few substances such as light greases. Group C substances are those with a specific gravity equal to or greater than 1.0 and are likely to drop below the water's surface.

7. Appendix E, Section 3.0 Determining Response Resources Required for Small Discharges—Petroleum Oils and Non-petroleum Oils Other Than Animal Fats and Vegetable Oils

The current FRP rule describes planning requirements for small discharges of all oils in one section (Section 3.0). We are proposing to add a new section (Section 8.0) for animal fats and vegetable oils. The planning requirements for small discharge of other oils would remain in Section 3.0.

Section 3.2. The proposed rule would clarify the requirements for response planning for small discharges at installations with both EPA-regulated and USCG-regulated facilities and describe current USCG requirements. This section would apply to petroleum oils and non-petroleum oils other than animal fats and vegetable oils. We would add a separate section (Section 8.2) for animal fats and vegetable oils.

Section 3.3. We propose minor revisions to clarify the determination of response resources. We would change the word ''spill'' to the more specific term ''discharge'' and change the number of the section mentioned in Section 3.3.3 to make it consistent with the new section numbers in the proposed rule.

8. Appendix E, Section 4. 0 Determining Response Resources Required for Medium Discharges—Petroleum Oils and Non-petroleum Oils Other Than Animal Fats and Vegetable Oils

The current FRP rule describes planning requirements for medium discharges of all oils in one section (Section 4.0). This section would apply to petroleum oils and non-petroleum oils other than animal fats and vegetable oils. We are proposing a new section (Section 9.0) for medium discharges of animal fats and vegetable oils.

Section 4.2. The proposed rule would clarify the requirements for response planning for medium discharges at EPA–USCG complexes and describe current USCG requirements. This section would apply to petroleum oils and non-petroleum oils other than animal fats and vegetable oils.

Section 4.4. We propose replacing the word ''spill'' with the more specific term ''discharge.''

9. Appendix E, Section 6.0. Determining the Appropriate Amount of Response Equipment

We will continue to use the criteria in Section 6.0 to determine the effective daily recovery capacity (EDRC) of oil recovery devices. These criteria are specified in Section 5.4. Section 6.0 provides for primary and alternative criteria for determining the EDRC of oil recovery devices. We have no data to suggest that a different EDRC would be appropriate for animal fats and vegetable oils. We request comment and data on the EDRC of oil recovery devices for animal fats and vegetable oils and whether different rates are appropriate for animal fats, vegetable oils, and petroleum oils with similar physical and chemical characteristics.

10. Appendix E, Section 7.0 Calculating Planning Volumes for a Worst Case Discharge—Petroleum Oils and Non-petroleum Oils Other Than Animal Fats and Vegetable Oils

In the current FRP rule, the worst case discharge of all oils is described in one section (Section 7.0). We propose adding new Section 10.0 for animal fats and vegetable oils and removing animal fats and vegetable oils from provisions in Section 7.0. We propose to modify Section 7.0 to include only petroleum oils and non-petroleum oils other than animal fats and vegetable oils. Our revisions would clarify that petroleum oils and non-petroleum oils other than animal fats and vegetable oils are included in Sections 7.0, 7.1, 7.7, 7.7.1, 7.7.2, and 7.7.3.

Section 7.7.5. Our revisions would require the facility owner or operator to ensure fire fighting resources by contract or other approved means. In the current rule, we recommend that the owner or operator ensure these resources. We propose this revision because although most oils do not easily catch fire by themselves, once oil fires begin, they are difficult to extinguish and can cause considerable environmental damage.

11. Appendix E, Section 8.0 Determining Response Resources Required for Small Discharges—Animal Fats and Vegetable Oils

In the current FRP rule, small discharges of all oils are included in one section (Section 3.0). We propose adding a new section (Section 8.0) for small discharges for facilities that handle, store, or transport animal fats and vegetable oils. The requirements for other oils would remain in Section 3.0. The planning requirements for small discharges of animal fats and vegetable oils would stay the same, except for the revisions that we propose below.

Section 8.2. The proposed rule would explain the requirements for response planning for small discharges at EPA–USCG complexes and describe current USCG requirements.

Section 8.3.1. The specific term ''discharge'' would replace ''spill,'' which is used in current Section 3.3

Section 8.3.3. We would renumber the section referred to in current Section 3.3.3.

12. Appendix E, Section 9.0 Determining Response Resources Required for Medium Discharges—Animal Fats and Vegetable Oils

In the current FRP rule, medium discharges of all oils are included in one section (Section 4.0). We propose adding Section 9.0 for medium discharges for facilities that handle, store, or transport animal fats and vegetable oils. The requirements for other oils would remain in Section 4.0. The planning requirements for medium discharges of animal fats and vegetable oils would stay the same, except for the revisions that we propose below.

Section 9.2. The proposed rule would explain the requirements for response planning for medium discharges at EPA–USCG complexes and would separate sections for petroleum oils and non-petroleum oils. The proposed rule would clarify current USCG requirements.

Sections 9.4 and 9.6. We would renumber the sections described in current Sections 4.4 and 4.6.

Section 9.7. We are including a new example that demonstrates the method discussed in this Appendix for calculating response planning equipment for medium discharges.

13. Appendix E, Section 10.0 Calculating Planning Volumes for a Worst Case Discharge—Animal Fats and Vegetable Oils

a. *Summary of Proposed Revisions.* In the current FRP rule, worst case discharges for all oils are included in one section (Section 7.0), which includes separate provisions for non-petroleum oils (Section 7.7). We address the likely differences in responding to spills of petroleum oil as opposed to non-petroleum oils, and create an approach that allows owners or operators of facilities that handle, store, or transport non-petroleum oils the flexibility to determine appropriate response equipment within the framework established by the regulation. (See Section 7.7 of Appendix E to 40 CFR part 112.) We provide further flexibility by allowing the Regional Administrator to assess the adequacy of response plans, including those for non-petroleum facilities, to account for site-specific factors. We do not prescribe the type and amount of equipment that response plans for non-petroleum oil discharges must identify. As required at § 112.20(h)(3)(i), in cases where it is not appropriate to follow part of Appendix E to identify response resources to meet the facility response plan requirements, owners or operators must clearly demonstrate in the plan why use of Appendix E is not appropriate at the facility and make comparable arrangements for response resources.

Our review of FRPs submitted to date shows that most owners and operators of facilities that handle, store, or transport animal fats and vegetable oils have voluntarily employed the petroleum oil methodology for determining response resources. The petroleum oil methodology is appropriate for determining response resources for petroleum discharges at facilities that store both petroleum oils and animal fats and vegetable oils. We are proposing a similar approach with some different factors for derermining response resources for discharges of animal fats and vegetable oils at such facilities and at facilities that store only animal fats and vegetable oils.

We are proposing a separate section (Section 10.0) describing the approach for calculating planning volumes for a worst case discharge of animal fats and vegetable oils. This new section reflects recent knowledge about the emulsification and environmental fate of animal fats and vegetable oils. It clearly differentiates between animal fats and vegetable oils and other classes of oils. The definitions and groups of animal fats and vegetable oils described above—Groups A, B, and C—are included in this section. The requirements for other oils would remain in Section 7.0.

We propose two new tables for animal fats and vegetable oils—Table 6, Removal Capacity Planning Table for Animal Fats and Vegetable Oils, and Table 7, Emulsification Factors for Animal Fats and Vegetable Oils. These tables are discussed in detail below.

The proposed methodology includes paragraphs on the following topics:

Section 10.1. Accounting for the potential for loss of oil to the environment through physical, chemical, and biological processes and deposition of oil on the shoreline or on sediments when planning for on-water oil recovery.

Section 10.2. Steps in determining the on-water recovery capacity.

Section 10.3. Procedures to calculate the volume for shoreline cleanup resource planning and identify appropriate shoreline cleanup capacity.

Section 10.4. Identifying response resources with appropriate fire fighting capability.

Section 10.5. An example showing how the proposed method and tables would be applied.

Section 10.6. Procedures for Group C oils (oil with a specific gravity greater than 1.0).

Section 10.7. Procedures used to determine appropriate response plan development and evaluation criteria.

b. *Calculating planning volumes for a worst case discharge using the current FRP rule.* EPA and the USCG considered the components of the weathering process in developing criteria for

determining adequate response resources for the purpose of response planning for oils. These criteria considered loss to the environment, potential for on-water recovery, and potential for shoreline impact. In developing rules for response planning for facilities and tank vessels, EPA and the USCG have previously discussed the applicability, development, and use of these criteria in several **Federal Register** notices (62 FR 54508, October 20, 1997; 61 FR 7890, February 29, 1996; 61 FR 1081, January 12, 1996; 59 FR 34070, July 1, 1994; 58 FR 7330, February 5, 1993; 58 FR 7376, February 5, 1993; 57 FR 27514, June 19, 1992).

The current FRP rule details several steps to calculate planning volume for a worst case discharge of petroleum oils. These steps involve selecting factors from tables and multiplying these factors by other numbers. The rule includes a worksheet that explains these steps. If you are a petroleum oil facility owner or operator, you must follow the steps in Appendix E to identify response resources or, where not appropriate, clearly demonstrate in the response plan why use of Appendix E is not appropriate at your facility and make comparable arrangements for response resources.

Under the current rule, if you are an owner or operator of a facility that handles, stores, or transports petroleum oils, you would determine the worst case discharge, the oil groups at the facility, and the geographic areas in which the facility operates (Table 1). Next, you would determine the percentages of oil volume used to determine resource planning for recovery of floating oil and shoreline cleanup (based on Table 2). Then you would obtain the on-water oil recovery capacity by multiplying this figure by an emulsification factor (Table 3) and an on-water oil recovery resource mobilization factor (Table 4). This latter value depends on the geographic area where your facility operates (such as rivers and canals or inland/nearshore areas) and three levels of response tiers. As a facility owner or operator, you would have to plan for a certain proportion of response resources to arrive at the scene of the discharge within the time frames that correspond to the three response tiers. Next, you would determine whether the requirements for the three response tiers exceed the values for response capability caps by operating area (Table 5). You would have to ensure by contract or other approved means, as described in § 112.2, availability of the quantity of resources required to meet the cap. You would not need to contract for resources that are above the response capability caps in advance, but you must identify sources of additional response resources. Once you had determined the amount and type of response equipment that you need, you would have to identify the additional response resources available by contract or other approved means, as described in § 112.2. The equipment that you identify must be capable of operating effectively in the conditions where the facility operates and within the tier response times.

If you are the owner or operator of a non-petroleum oil facility, including an animal fat or vegetable oil facility, you would have greater flexibility than the owner or operator of a petroleum oil facility. You would have to show procedures and strategies for responding to the maximum extent practicable to a worst case discharge; show sources of equipment and supplies necessary to locate, recover, and mitigate discharges; demonstrate that the equipment identified will work in the conditions expected in the relevant geographic areas, and respond within the required times; and ensure the availability of required resources by contract or other approved means. You would not be limited to using the emulsification and evaporation factors in the petroleum tables (Tables 2 and 3).

c. *Calculating planning volumes for a worst case discharge of animal fats and vegetable oils under the proposed rule.* The proposed rule would make no changes in the methodology for calculating planning volumes for a worst case discharge of petroleum oils or non-petroleum oils other than animal fats and vegetable oils. For animal fats and vegetable oils, we propose to modify the methodology that is used to assess response equipment needs for petroleum oils to account for factors that are specific to animal fats and vegetable oils. With the proposed methodology, the owner or operator of an animal fat or vegetable oil facility would calculate response resources using the same steps that are used for petroleum oils, but some factors used in the calculation would be different. Section 10.0 describes the proposed methodology.

The proposed methodology includes two new tables to Appendix E (Table 6, Removal Capacity Planning for Animal Fats and Vegetable Oils, and Table 7, Emulsification Factors for Animal Fats and Vegetable Oils). For animal fats and vegetable oils, these tables would replace Tables 2 and 3, which apply to petroleum oils. Three existing tables (Table 1, Response Resource Operating Criteria; Table 4, On-Water Oil Recovery Resource Mobilization Factors; and Table 5, Response Capability Caps by Operating Area) would remain the same in the proposed methodology. We are including Table 5 to recognize the practical limitations on the availability of response resources. The use of response caps in the methodology for petroleum oils and animal fats and vegetable oils would prevent excessive planning requirements for response equipment that does not exist in general operating areas. Any equipment identified in a response plan would have to be capable of operating in the conditions expected in the geographic area(s) (i.e., operating environments) in which the facility operates using the criteria in Table 1 (see Section 10.7.2 of Appendix E). The proposed rule also includes an example (Section 10.5) and a new worksheet that shows a second example of the calculation of response resources for a worst case discharge of animal fat or vegetable oils (Attachment E–2).

If you are the owner or operator of an animal fat or vegetable oil facility who is using the proposed methodology, you would follow the steps listed in the new worksheet to determine response resources. First you would calculate the worst case discharge for your facility and determine the oil group and operating area. The oil group is listed in Table 7 and defined in Section 1.2 of this Appendix. The operating areas are defined in Section 1.1 of Appendix C and listed in Table 1 of Appendix E. In the next step, you would determine the percentage of your oil that is apportioned to the three segments listed in Table 6—oil lost to the environment, recovered floating oil, and oil onshore. By multiplying the percentage of oil on-water or onshore by the worst case discharge, you would determine on-water oil recovery or shoreline recovery. Next, you would multiply the on-water recovery or shoreline recovery by the emulsification factor, which is determined in Table 7. You would multiply that figure by the on-water oil recovery resource mobilization factors for the three response tiers in Table 4 and compare the values to the response capability caps in Table 5. You must ensure by contract, or other approved means, as described in § 112.2, availability of the quantity of resources to meet the applicable caps. You would not need to contract in advance for amounts of response resources above the caps, but you must identify sources of additional response resources.

d. *Removal capacity planning for animal fats and vegetable oils.* In the current FRP rule, owners or operators of non-petroleum oil facilities do not have to use the evaporation factors that apply

to petroleum oils in Table 2. Unlike petroleum oils, most animal fats and vegetable oils do not contain substantial amounts of volatile materials that evaporate. Compared to some petroleum oils, a greater proportion of spilled vegetable oils and animal fats usually remains in the water, collects on sediments or land, or contaminates biota (USDOC/NOAA, 1992, 1996; Hui, 1996a, 1996b).

We are proposing a new table, Table 6, Removal Capacity Planning Table for Animal Fats and Vegetable Oils. This table accounts for the potential for natural degradation of oil as spilled animal fats and vegetable oils undergo changes in the environment. Although we recognize that degradation is affected by many factors and conditions that are specific to each spill, we are proposing the percentages of loss and recovery in Table 6 to aid in response planning.

To arrive at the numbers in Table 6, EPA has examined numerous studies on the fate and effects of animal fats and vegetable oils in the environment (62 FR 54508, October 20, 1997). Experiments using three vegetable oils (olive oil, sunflower oil, and linseed oil) demonstrated that natural degradation occurred at a rate of between 3 and 8 percent per day (Mudge et al., 1994). At some stage during the degradation process, the oils polymerized and degradation rates were reduced to less than 1 percent per day. Polymerization, a chemical reaction in which a large number of relatively simple molecules combine to form a chain-like macromolecule, occurs spontaneously in the environment (Sax and Lewis, 1987). With polymerization, soybean oil and sunflower oil form a concrete-like aggregate with soil and sand that cannot be readily degraded by bacteria and may remain in the environment for many years after they are spilled (Minnesota, 1963; Mudge, 1995, 1997a, 1997b). Petroleum oils also undergo oxidation and polymerization reactions and can form tars that persist in the environment for years (NAS, 1985). Animal fats and vegetable oils can also be transformed by other chemical reactions, such as hydrolysis.

Another study, which is being conducted for EPA by Battelle Columbus Laboratories, measures the biodegradation of vegetable oils (Venosa and Alleman, Personal Communication, 1999). Preliminary data provide an estimate of the biodegradation of two vegetable oils that occurs under the conditions of the experiment. The experiment was carried out at three pH levels (5, .7, and 9) and at two temperatures (10 °C and 25 °C). Bacterial cultures were added to samples of crude soybean oil and crude canola oil, and oil was extracted from the samples at various times using standard method 5520B (APHA, 1992). Because this extractable oil includes lipids derived from the bacteria and other sources, the values represent the minimum amount of biodegradation of the samples. At 25 C at least 20 to 25 percent of the crude soybean oil was biodegraded after 25 days, and at least 15 to 39 percent of the crude canola oil was biodegraded after 36 days, depending on pH. At the lower temperature less biodegradation occurred. The total extractable oil was measured for a period up to 36 days. The sample was cloudy, indicating significant emulsification. During biodegradation an increase in toxicity was observed using the Microtox test (ASTM, 1997).

Other reports indicate that the degradation of animal fats and vegetable oils depends on a variety of factors. A summary of a group of studies by the British Ministry of Agriculture, Fisheries and Food (MAFF) explains that biodiesel (rape methyl ester), which was tested at three concentrations, disappeared from the waterbody, plants, and sediments more quickly than marine diesel (MAFF, 1996). Another report describes the deterioration of olive oil by hydrolysis, phytoxidation, and microbial action (Kiritsakis, 1991). The transformation of vegetable oils exposed to air and light has been measured in terms of deterioration of flavor (Hui, 1996a). A study of land disposal of cooking oils used in potato processing measured a decomposition of 70 to 76 percent of the oil in soils over 12 weeks (Smith, 1974). When adequate nitrogen was present, palm oil and soybean oil decomposed rapidly. Another study reported that various fungal species caused biochemical changes in the constituents of palm oil (Cornelius et al., 1965). Factors that affect the biodegradation of oils include pH, dispersal of oil, dissolved oxygen, presence of nutrients, soil type, type of oil, and the concentration of undissociated fatty acids in water (Ratledge, 1994; Venosa et al., 1996; Salanitro et al., 1997).

Based on the above information, we are suggesting that approximately 20 percent of the volume of a Group B animal fat or vegetable oil may be lost due to natural processes. We also expect that facilities could plan to recover from the water approximately 15 percent of the total oil discharged during a 3-day period of sustained operations in the Rivers and Canals operating environment. Due to the narrowness of many of these operating environments, the spilled oil is more likely to become stranded on the shoreline. We expect that facilities could plan to recover approximately 20 percent of the oil discharged during a 4-day period of sustained operations in the Nearshore, Inland, and Great Lakes operating environments. Because of the open nature of these operating environments, there will be a greater opportunity for on-water recovery before the oil is stranded on the shoreline. However, one study comparing canola oil (rapeseed oil) to crude oil indicates that under certain conditions a 30 to 40 percent increase in the recovery of canola oil is likely when compared to crude oil (Allen and Nelson, 1983). In actual spill situations, some responders have indicated that a larger percentage of the discharged animal fats or vegetable oils may be recovered on the water than the level we are proposing for on-water recovery in Table 6.

We request data and comments on the factors listed in Table 6, including whether higher factors (percentage recovered) for on-water recovery are appropriate. We are particularly interested in receiving data on recovery of animal fats and vegetable oils from oil spill contractors, such as Oil Spill Removal Organizations, or others who may have experience in responding to discharges of animal fats and vegetable oils. We are also interested in ongoing or planned research on animal fats and vegetable oils that relates to these factors.

e. *Emulsification factors for animal fats and vegetable oils.* The tendency of petroleum and non-petroleum oils to form emulsions of water-in-oil or oil-in-water depends on the unique chemical composition of the oil (NAS, 1985; Knowlton and Pearce, 1993; Fingas et al., 1995; Lewis et al., 1995). Emulsification also depends on tempera ture, the presence of stabilizing compounds, and other factors. Some oils contain natural emulsifiers, such as lecithin, or form compounds, such as monoglycerides, that are used as commercial emulsifiers (Hui, 1996c). When an emulsion is formed in the environment, the oil changes appearance, and its viscosity can increase by many orders of magnitude (USDOC/NOAA, 1994). Removal of the oil becomes harder because of the increased difficulty in pumping viscous fluids with up to fivefold increases in volume.

While there is no simple method for determining the tendency of oils to form emulsions in the environment, one study demonstrated that canola oil and crude oils have similar tendencies for emulsification in cold temperature tests

(Allen and Nelson, 1983). Each oil took up approximately 10 percent of the original volume in water globules that did not settle out for several hours in the shake test. Under warm conditions, canola oil formed small stable emulsions, while crude oil formed emulsions with large amounts of seawater.

Another study indicates that certain crude and refined vegetable oils form emulsions, ranging from 10 to 32 percent. The investigators observed that crude corn oil has a greater tendency to emulsify than refined corn oil (Calanog et al., 1999).

According to one scale, the characteristics of some animal fats and vegetable oils and petroleum oils are similar (Hui, 1996c). The hydrophilic-lyphophilic balance (HLB) scale characterizes the solubility of emulsifiers. The scale has been used by manufacturers seeking emulsifier systems with high stability and long shelf life. The original HLB scale ranges from 0 to 20. The low end of the scale signifies an emulsifier that is more soluble in oil than water, while emulsifiers in the high end of the scale are more soluble in water than in oil. Water/oil emulsions are most stable in the 3 to 6 range; oil/water emulsions are favored in the 11 to 15 range; and emulsions with intermediate values are generally not stable.

Some petroleum oils and vegetable oils and animal fats have a similar range of HLB values in water-in-oil and oil-in-water emulsions used in commercial products (Knowlton and Pearce, 1993). The required HLB values for water-in-oil emulsions are 5 for cottonseed oil, 4 to 6 for mineral oil, 6 for kerosene, and 7 for gasoline. For oil-in-water emulsions, HLB values for vegetable oils and animal fats include 5 for lard, 6 for tallow, 6 to 10 for cottonseed oil, 12 for menhaden oil, and 14 for castor oil; for other oils, HLB values for oil-in-water emulsions are 7 to 8 for petrolatum, 10 to 12 for mineral oils, 12 for kerosene, and 14 for petroleum naphtha.

While the physical properties of vegetable oils and animal fats are highly variable, most fall within a range that is similar to the physical parameters for petroleum oils (October 20, 1997, 63 FR 24508, Appendix I, Table 1). Common properties, such as solubility, specific gravity, and viscosity, are responsible for the similar environmental effects of discharges of petroleum oils and animal fats and vegetable oils. These common properties are also likely to result in similar emulsification factors between petroleum oils and animal fats and vegetable oils.

Based on similarities in chemical and physical characteristics of petroleum oils, vegetable oils, and animal fats, we are proposing emulsification factors for animal fats and vegetable oils which are similar to the emulsification factors for petroleum oils in corresponding oil groups. Emulsification factors are unitless multipliers that are used in calculating planning volumes for worst case discharges. The emulsification factors in Table 7 account for the increases in volume that result when discharged oil forms emulsions. For example, the emulsification factor of 2.0 means that the volume of the oil increases two-fold when emulsified with water under appropriate mixing conditions.

We request data on emulsification factors for animal fats or vegetable oils from either laboratory testing or from actual discharges.

f. *Example—Application of Response Capability Caps to determine response resources.* We propose to apply the Response Capability Caps in Table 5 in Appendix E to response equipment requirements for animal fats and vegetable oils. In reviewing response plans submitted by facilities that handle or store animal fats or vegetable oils, we discovered that most plan holders had voluntarily employed the petroleum oil methodology for determining response resources. In proposing a methodology for animal fats and vegetable oils that is similar to but different from the methodology for petroleum oils, we determined that it is appropriate to recognize the practical limitations on the availability of response resources. Failure to do this may result in excessive planning requirements for response equipment that does not exist in the general operating areas. See Appendix A in the preamble and Appendix B in the preamble for examples of the Planning Worksheet from Appendix E in 40 CFR part 112 and application of the values in proposed Tables 6 and 7. The examples demonstrate how the application of the Response Capability Caps is as relevant for vegetable oils and animal fats as it is for petroleum oils.

Determining the planning volume and response resources. To follow the methodology, you would establish the volume of the worst case discharge using one of the methods in Appendix D in part 112. Then you would identify the oil group using the definitions in Section 1.2 of Appendix E, identify the facility operating area using the definitions in Appendix C, and locate the appropriate operating area (spill location) in Table 6 in Appendix E. From Table 6, column Nearshore/Inland/Great Lakes, you would identify the ''Percent Recovered Floating Oil'' and the ''Percent Recovered Oil from Onshore.'' You would multiply the ''Percent Recovered Floating Oil'' by the worst case discharge and multiply the resulting value by the proper emulsification factor in Table 7 to establish the on-water oil recovery volume in barrels. You would consult Table 4 in Appendix E to establish the On-Water Oil Recovery Resource Mobilization Factors. Then you would multiply the factors in each of the three tiers by the on-water oil recovery volume to determine the on-water recovery capacity (barrels per day) that must be planned to be on scene at the response times provided in Section 5.3 in Appendix E. You can check these values against the Response Capability Caps (expressed in barrels per day) in Table 5 for the specific operating area and date. The facility owner or operator (plan holder) must ensure by contract or other approved means the availability of response resources for the lesser of either the on-water recovery capacity or the capability caps. Response resources are required to be identified (but not contracted for in advance) for the volume above the response capability caps. The capability of oil recovery devices can be determined using Section 6.0 in Appendix E in part 112. To establish the shoreline cleanup volume, you would multiply the ''Percent Recovered Oil from Onshore'' from Table 6, column Nearshore/Inland/Great Lakes in Appendix E times the worst case discharge times the proper emulsification factor. The resulting volume must be used to identify an oil spill removal organization with the appropriate shoreline cleanup capability.

Comparison of planning volumes and response resources. Appendix C in this preamble provides an example of the application of existing regulations for petroleum oils. When the on-water recovery capacity (Part II of the Worksheets) is compared in each of the three examples in Appendix A, B, and C of the preamble, it is apparent that the required planning volume for animal fats and vegetable oils to be recovered from the water is less than for petroleum oils. The proposed rule will require lesser amounts of response equipment to be identified in a response plan for facilities that are located in the nearshore or inland operating areas relative to a similar facility with petroleum oil. It is also apparent that application of the Response Capability Caps in Table 5 in Appendix E limits the amount of daily recovery capacity

required to be ensured by contract or other approved means.

Section 10.5 in the proposed rule provides a similar example of calculating the planning volume from a worst case discharge of animal fats and vegetable oils into an Inland Operating Area. The planning volume for on-water recovery is for a worst case discharge of 21 million gallons (500,000 barrels) of Group B vegetable oil.

By using the Response Capability Caps in Table 5, facilities that handle or store oils are limited in the amount of response resources they must have under contract or otherwise identify in the FRP. The caps in Table 5 reflect the limits of technology and private removal capability. Table 5 also provides the increases in the response capability caps after February 18, 1998 to reflect the increase in private removal resources. One study by the USCG on the scheduled increases in removal resources indicates that the response capability caps that were scheduled for 1998 have been exceeded in many areas.

C. Advance Notice of Proposed Rulemaking

EPA requests comment concerning ways we might differentiate among the various classes of oils listed in the Edible Oil Regulatory Reform Act for purposes of the Spill Prevention, Control, and Countermeasure Rule, found at 40 CFR part 112. Those classes of oil are: animal fats and oils and greases, and fish and marine mammal oils; oils of vegetable origin, including oils from seeds, nuts, and kernels; and other oils and greases, including petroleum. We are interested in how we might differentiate in the prevention requirements for these classes of oils based on the physical, chemical, biological, and other properties of these oils, and on their environmental effects if discharged into the environment.

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IV. Regulatory Analyses

A. Executive Order 12866: OMB Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether the regulatory action is ''significant'' and therefore subject to review by the Office of Management and Budget (OMB). A ''significant regulatory action'' is an action that results in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect 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 new legal or policy issues arising out of legal mandates, the President's priorities, or the principles in the Executive Order.

It has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review.

B. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any enforceable duties on these entities. EPA believes that no State, local, or tribal governments are included in its FRP-regulated community. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

C. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13084 requires EPA to prove to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. EPA believes that no tribal governments are included in its FRP-regulated community. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

D. Executive Order 13045: Children's Health

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 F.R. 19885, April 23, 1997) applies to any rule that : (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. The proposed rule is not subject to Executive Order 13045, because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This is so, because the types of risks resulting from oil discharges do not have a disproportionate effect on children.

The public is invited to submit or identify peer-reviewed studies and data, of which the Agency may not be aware, that assessed results from early-life

exposure to vegetable oils and animal fats.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq., as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996) whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. The following discussion explains our determination.

We have examined this rule's potential effects on small entities as required by the Regulatory Flexibility Act and have determined that this action will not have a significant economic impact on a substantial number of small entities. Based on a survey of FRPs, we have determined that out of approximately 29 companies that are affected by this rulemaking (because they have one or more FRP facilities with animal fats or vegetable oils), only about twelve meet the Small Business Administration's definition of a small business (Screening Analysis of the Facility Response Planning Requirements on Small Non-Petroleum Entities).

In this rulemaking, we are proposing to add a methodology that can be used by facilities to plan for the appropriate volume of response resources needed for a worst case discharge of an animal fat or vegetable oil, similar to the existing methodology provided for petroleum oils. As a result, the overall economic effect of this regulation has been determined to reduce the reporting and recordkeeping burden for facilities that are required to prepare and maintain plans for the discharge of vegetable oils and animal fats because they no longer will be required to provide additional documentation to support their determinations. We believe that facilities will save on the order of one to four labor hours in annual reporting and recordkeeping burden as a result of the proposed changes. These effects are discussed in greater detail in the Paperwork Reduction Act section of this Preamble. Furthermore, we believe that some facilities could realize additional cost savings as a result of calculations performed in estimating the appropriate amount of response planning resources needed to respond to a worst case discharge based on new information provided in proposed Tables 6 and 7. However, we have not attempted to quantify the total cost savings associated with this possibility in order to avoid overestimating the effects of the rulemaking. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. This rule, therefore, does not require a regulatory flexibility analysis.

F. Paperwork Reduction Act

We will submit the information collection requirements in this proposed rule to OMB for approval as required by the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* We prepared Information Collection Request (ICR) documents (EPA ICR No. 1630.05), and you may obtain a copy by contacting Sandy Farmer, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW.; Washington, D.C. 20460 or by calling 202–260–2740. You may also view or download these ICRs at our ICR Internet site at http://www.epa.gov/icr.

The FRP rule (40 CFR 112.20–21) requires that owners or operators of facilities that could cause ''substantial harm'' to the environment by discharging oil into navigable waters or adjoining shorelines prepare plans for responding, to the maximum extent practicable, to a worst case discharge of oil, to a substantial threat of such a discharge, and, as appropriate, to discharges smaller than worst case discharges. All facilities subject to this requirement must submit their plans to us. In turn, we review and approve plans submitted by facilities identified as having the potential to cause ''significant and substantial harm'' to the environment from oil discharges. Other low-risk, regulated facilities are not required to prepare FRPs but are required to document their determination that they do not meet the ''substantial harm'' criteria.

Through this rulemaking, we propose to reduce the reporting and recordkeeping burden for facilities that are regulated under the FRP rule due to the storage of animal fats and vegetable oils by clarifying response planning requirements for these facilities. Specifically, we propose to add a new methodology to allow facilities to calculate planning volumes for a worst case discharge of animal fats or vegetable oils similar to the methodology provided for discharges of petroleum oils. Currently these facilities are required to identify in their plans the procedures used to determine the appropriate amount of resources needed to respond to a worst case discharge of a non-petroleum oil. As a result, we believe that the overall economic effect of this proposal will be to reduce the reporting and recordkeeping burden for these facilities.

In addition, we are proposing to allow case-by-case deviations for facility response planning levels and are soliciting comment on whether to allow facilities to combine response planning at either the small and medium stage, or the medium and large stage for discharges of vegetable oils and animal fats. We estimate the cost savings from this proposal to be minimal, as our Regional Administrators already give consideration to unique facility characteristics during their review of FRPs in allowing plan deviations.

We do not expect the number of facilities subject to the requirements to develop an FRP and maintain the plan on a year-to-year basis to change as a result of this proposed rulemaking. In the current ICR, we estimate that 5,465 facilities would be required to develop and submit FRPs. Of these 5,465 facilities, we estimate that approximately 61 facilities (owned or operated by 29 companies) are required to develop and submit FRPs due to the storage of vegetable oils and animal fats.

We have previously estimated that it requires between 85 and 126 hours for facility personnel in a large facility (i.e, total storage capacity greater than one million gallons) and between 21 and 44 hours for personnel in a medium facility (i.e., total storage capacity greater than 42,000 gallons and less than or equal to one million gallons) to comply with the annual, subsequent-year reporting and recordkeeping requirements of the FRP rule. We have also estimated that a newly regulated facility will require between 225 and 280 hours to prepare a plan in the first year. We estimate that the present information collection burden of the FRP rule for facilities that are regulated due to the storage of vegetable oils and animal fats to be approximately 5,979 hours a year. Through this rulemaking, we propose to reduce that burden by approximately four hours for a large facility and one hour for a medium facility. This proposed reduction would result in an annual average burden of 5,751 hours.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time required to perform the following tasks: (1) review instructions; (2) develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; (3) adjust the existing ways to comply with any previously applicable instructions and requirements; (4) train personnel to be able to respond to a collection of information; (5) search data sources; (6) complete and review the collection of information; and (7) transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. We request your comments on our need for this information, the accuracy of the provided burden estimates, and the accuracy of the supporting analyses used to develop the burden estimates. We also request your suggestions on methods for further minimizing respondent burden, including the use of automated collection techniques. Send your comments and suggestions on the ICR to both:

(1) The Director, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., SW.; Washington, D.C. 20460, or E-mail to farmer.sandy@epa.gov; and

(2) The Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW.; Washington, D.C. 20503, marked ''Attention: Desk Officer for EPA.''

Include the ICR number in any correspondence. Because OMB must make a decision concerning the ICR between 30 and 60 days after April 8, 1999, OMB requests your comments by May 10, 1999. In the final rule, we will respond to any OMB or public comments we receive on the information collection requirements contained in this proposal.

G. Unfunded Mandates

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. This determination is based on the fact that the proposed revisions are designed to clarify the requirements for certain facilities that store vegetable oils and animal fats to comply with the FRP rule. The proposed revisions are designed to decrease the current reporting or recordkeeping burden and cost for these facilities and do not impose any additional requirements. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments for similar reasons. Furthermore, based on a survey of FRPs submitted to EPA, we did not identify any small governments that would be affected by this rulemaking.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law No. 104–113, § 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites you to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

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V. Appendices to the Preamble

Appendix A to the Preamble

Example 1 - Worksheet for Animal Fats and Vegetable Oils Discharge into Rivers and Canals Operating Areas

Worksheet to Plan Volume of Response Resources

All reference to appendices in this worksheet are to existing or proposed changes to appendices in 40 CFR part 112

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D) . . . . . 500,000 (A)

Step (B) Oil Group[1] (Table 7 and section 1.2 of Appendix E) . . . . . B

Step (C) Operating Area (choose one)

	Nearshore /Inland Great Lakes		or Rivers and Canals
		x	

Step (D) Percentages of Oil (Table 6 of Appendix E)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
20 (D1)	15 (D2)	65 (D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step(D2) x Step(A)}}{100}$ = 75,000 (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step (D3) x Step (A)}}{100}$ = 325,000 (E2)

Step (F) Emulsification Factor (Table 7 of Appendix E) . . . . . 2.0 (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor
(Table 4 of Appendix E)

Tier 1	Tier 2	Tier 3
.30	.40	.60
(G1)	(G2)	(G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
45,000	60,000	90,000
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) . . . 650,000

Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of Appendix E)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
1,875	3,750	7,500
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
43,125	56,250	82,500
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

Appendix B to the Preamble
Example 2 - Worksheet for Animal Fats and Vegetable Oils Discharge into Inland Operating Area

Worksheet to Plan Volume of Response Resources
All reference to appendices in this worksheet are to existing or proposed changes to appendices in 40 CFR part 112

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D) . . . . . 500,000 (A)

Step (B) Oil Group[1] (Table 7 and section 1.2 of appendix E) . . . . . B

Step (C) Operating Area (choose one) . . . . . [x] Nearshore/Inland Great Lakes [ ] or Rivers and Canals

Step (D) Percentages of Oil (Table 6 of Appendix)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
30 (D1)	20 (D2)	50 (D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step(D2)} \times \text{Step(A)}}{100}$ = 100,000 (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step (D3)} \times \text{Step (A)}}{100}$ = 250,000 (E2)

Step (F) Emulsification Factor (Table 7 of Appendix E) . . . . . 2.0 (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor (Table 4 of Appendix E)

Tier 1	Tier 2	Tier 3
.15 (G1)	.25 (G2)	.40 (G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Appendix B to the Preamble (continued)
Example 2 (continued)

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
30,000	50,000	80,000
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) . . . 500,000

Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of Appendix E)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
12,500	25,000	50,000
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
17,500	25,000	30,000
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

Appendix C to the Preamble
Example 3 - Worksheet for Petroleum Oil Discharge into Inland Operating Areas

Worksheet to Plan Volume of Response Resources
All reference to appendices in this worksheet are to existing or proposed changes to appendices in 40 CFR part 112

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D): 500,000 (A)

Step (B) Oil Group[1] (Table 3 and section 1.2 of Appendix E) 3

Step (C) Operating Area (choose one): [x] Nearshore /Inland Great Lakes [ ] or Rivers and Canals

Step (D) Percentages of Oil (Table 2 of Appendix E)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
30 (D1)	50 (D2)	50 (D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step(D2) x Step(A)}}{100}$: 250,000 (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step(D3) x Step(A)}}{100}$: 250,000 (E2)

Step (F) Emulsification Factor (Table 3 of Appendix E) . . . . . 2.0 (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor (Table 4 of Appendix E)

Tier 1	Tier 2	Tier 3
.15 (G1)	.25 (G2)	.40 (G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Appendix C to the Preamble (continued)
Example 2 (continued)

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
75,000	125,000	200,000
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) . . 500,000

Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of Appendix E)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
12,500	25,000	50,000
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
62,500	100,000	150,000
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

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List of Subjects in 40 CFR Part 112

Environmental protection, Fire prevention, Flammable materials, Materials handling and storage, Oil pollution, Oil spill response, Petroleum, Reporting and recordkeeping requirements, Tanks, Water pollution control, Water resources.

Dated: March 26, 1999.

Peter D. Robertson,

Acting Administrator.

For the reasons discussed in the Preamble, the Environmental Protection Agency proposes to amend 40 CFR part 112 as follows:

PART 112—OIL POLLUTION PREVENTION

1. The authority citation for part 112 continues to read as follows:

Authority: 33 U.S.C. 1321 and 1361; E.O. 12777 (October 18, 1991), 3 CFR, 1991 Comp., p. 351; 33 U.S.C. 2720.

2. Amend § 112.2 to add the following definitions in alphabetical order to read as follows:

§ 112.2 Definitions

* * * * *

Animal fat means non-petroleum oils, fats, and greases of animal, fish, or marine mammal origin.

* * * * *

Non-petroleum oil means oil of any kind that is not petroleum-based, including but not limited to: fats, oils, and greases of animal, fish, or marine mammal origin; and vegetable oils, including oils from seeds, nuts, fruits, and kernels.

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Petroleum oil means petroleum in any form, including but not limited to crude oil, fuel oil, mineral oil, sludge, oil refuse, and refined products.

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Vegetable oil means a non-petroleum oil or fat of vegetable origin, including but not limited to oils and fats derived from plant seeds, nuts, fruits, and kernels.

* * * * *

3. Amend § 112.20 by adding paragraph (a)(4) and revising the phrase ''section 10'' in paragraph (f)(1)(ii)(B) to read section 13 as follows:

§ 112.20 Facility response plans.

(a) * * *

(4) *Preparation and submission of response plans—Animal fat and vegetable oil facilities.* The owner or operator of any non-transportation-related facility that handles, stores, or transports animal fats and vegetable oils must prepare and submit a facility response plan as follows:

(i) *Facilities with approved plans.* The owner or operator of a facility with a facility response plan that has been approved by [effective date of the final rule] need not prepare or submit a revised plan except as otherwise required by paragraphs (b), (c), and (d) of this section.

(ii) *Facilities with plans that have been submitted to the Regional Administrator.* Except for facilities with approved plans as provided in (a)(4)(i) of this section, the owner or operator of a facility that has submitted a response plan to the Regional Administrator prior to [effective date of the final rule] must review the plan to determine if it meets or exceeds the applicable provisions of this part. An owner or operator need not prepare or submit a new plan if the existing plan meets or exceeds the applicable provisions of this part. If the plan does not meet or exceed the applicable provisions of this part, the owner or operator must prepare and submit a new plan by [date sixty days after the effective date of the final rule].

(iii) *Newly regulated facilities.* The owner or operator of a newly constructed facility that commences operation after [effective date of the final rule] must prepare and submit a plan to the Regional Administrator in accordance with paragraph (a)(2)(ii) of this section. The plan must meet or exceed the applicable provisions of this part. The owner or operator of an existing facility that must prepare and submit a plan after [effective date of the final rule] as a result of a planned or unplanned change in facility characteristics that causes the facility to become regulated under paragraph (f)(1) of this section, must prepare and submit a plan to the Regional Administrator in accordance with paragraphs (a)(2)(iii) or (iv) of this section, as appropriate. The plan must meet or exceed the applicable provisions of this part.

(iv) *Facilities amending existing plans.* The owner or operator of a facility submitting an amended plan in accordance with paragraph (d) of this section after [effective date of the final rule], including plans that had been previously approved, must also review the plan to determine if it meets or exceeds the applicable provisions of this part. If the plan does not meet or exceed the applicable provisions of this part, the owner or operator must revise and resubmit revised portions of an amended plan to the Regional Administrator in accordance with paragraphs (d) of this section, as appropriate. The plan must meet or exceed the applicable provisions of this part.

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4. Amend § 112.21 by revising the phrase ''section 10'' to read ''section 13'' in the second sentence of paragraph (c).

5. Amend Appendix C to part 112 by revising phrase ''section 10'' to read ''section 13'' in the second sentence of section 2.3, the last sentence in section 4.0, and the second sentence of Attachment C–II, paragraph 3.

6. Amend Appendix D to part 112 by revising the phrase ''section 10'' to read ''section 13'' in the second sentence in section 1.4.

7. Appendix E to part 112 is amended by revising the phrase ''section 10'' to read ''section 13'' wherever it appears;

by revising the phrase ''section 9.2'' to read ''section 12.2'' wherever it appears;

by revising the word ''spill'' to read ''discharge'' wherever it appears;

by revising the phrase ''non-petroleum oils'' to read ''non-petroleum oils other than animal fats and vegetable oils'' wherever it appears;

by redesignating sections 1.2.1 through 1.2.7 as section 1.2.2 through 1.2.8, respectively, and by redesignating section 1.2.8 as 1.2.10;

by adding new sections 1.2.1 and 1.2.9 to read as set forth below;

by revising newly designated section 1.2.3 (2) to read as set forth below;

by revising newly designated section 1.2.4 to read as set forth below;

by revising the first sentence of newly designated section 1.2.8 (2) to read as set forth below;

by revising newly designated section 1.2.10 to read as set forth below;

by revising the phrase ''section 4.3'' to read ''sections 4.3 and 9.3'' in the third sentence of section 2.6;

by revising section 3.0 to read as set forth below;

by revising section 3.2 to read as set forth below;

by adding new sections 3.2.1 and 3.2.2 to read as set forth below;

by revising section 4.0 to read as set forth below;

by revising section 4.2 to read as set forth below;

by adding new sections 4.2.1 and 4.2.2 to read as set forth below;

by revising the phrase ''Section 7'' to read ''Sections 7 and 10'' in the second sentence of section 5.1;

by revising the phrase ''Attachment E–1'' to read ''Attachments E–1 and E–2'' in the third sentence of section 5.1;

by revising the phrase ''sections 7.2 and 7.3 of this appendix'' to read ''sections 7.2 and 7.3 or sections 10.2 and 10.3 of this appendix'' in the third sentence of section 5.3;

by revising the phrase ''Table 2'' to read ''Table 2 and Table 6'' in the fifth sentence of section 5.7;

by revising the phrase ''Tables 2 and 3'' to read ''Tables, 2, 3, 6, 7'' in the second sentence of section 5.8;

by revising section 7.0 to read as set forth below;

by revising the second sentence of section 7.2.1 to read as set forth below;

by revising the third sentence of section 7.4 to read as set forth below;

by revising the third sentence of section 7.6.3 to read as set forth below;

by revising the second sentence of section 7.7 to read as set forth below;

by revising section 7.7 (1) to read as set forth below;

by revising the second, third and fourth sentences of section 7.7.5 to read as set forth below;

by redesignating sections 8.0, 8.1 and 8.2 as sections 11.0, 11.1, 11.2, respectively, and revising those sections to read as set forth below;

by redesignating sections 9.0, 9.1, 9.2 and 9.3 as sections 12.0, 12.1, 12.2 and 12.3, respectively, and revising those sections to read as set forth below;

by redesignating sections 10.0, 10.1, 10.2 and 10.3 as sections 13.0, 13.1, 13.2 and 13.3, respectively, and revising those sections to read as set forth below; and

by adding new sections 8.0, 9.0, and 10.0 to read as set forth below.

Appendix E to Part 112—Determination and Evaluation of Required Response Resources for Facility Response Plans

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1.2.1 *Animal fat* means non-petroleum oils, fats, and greases of animal, fish, or marine mammal origin. Animal fats are further classified based on specific gravity as follows:

(A) Group A—specific gravity less than 0.8.

(B) Group B—specific gravity equal to or greater than 0.8 and less than 1.0.

(C) Group C—specific gravity equal to or greater than 1.0.

1.2.2 * * *

1.2.3 * * *

(2) A non-petroleum oil, other than an animal fat or vegetable oil, with a specific gravity less than 0.8.

1.2.4 *Non-petroleum oil* means oil of any kind that is not petroleum-based, including but not limited to: fats, oils, and greases of animal, fish, or marine mammal origin; and vegetable oils, including oils from seeds, nuts, fruits, and kernels.

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1.2.8 * * *

(2) A non-petroleum oil, other than an animal fat or vegetable oil, with a specific gravity of 0.8 or greater. * * *

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1.2.9 *Vegetable oil* means a non-petroleum oil or fat of vegetable origin, including but not limited to oils and fats derived from plant seeds, nuts, fruits, and kernels. Vegetable oils are further classified based on specific gravity as follows:

(A) Group A—specific gravity less than 0.8.

(B) Group B—specific gravity equal to or greater than 0.8 and less than 1.0.

(C) Group C—specific gravity equal to or greater than 1.0.

1.2.10 Other definitions are included in § 112.2, section 1.2 of Appendices C and E, and section 3.0 of Appendix F.

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3.0 Determining Response Resources Required for Small Discharges—Petroleum oils and non-petroleum oils other than animal fats and vegetable oils

* * * * *

3.2 Complexes that are regulated by EPA and the USCG must also consider planning quantities for the transportation-related transfer portion of the facility.

3.2.1 *Petroleum oils.* The USCG planning level that corresponds to EPA's ''small discharge'' is termed ''the average most probable discharge.'' A USCG rule found at 33 CFR 154.1020 defines ''the average most probable discharge'' as a discharge of 50 barrels (2,100 gallons). Owners or operators of complexes that handle, store, or transport petroleum oils must compare oil spill volumes for a small discharge, and an average most probable discharge, and plan for whichever quantity is greater.

3.2.2 *Non-petroleum oils other than animal fats and vegetable oils.* Owners or operators of complexes that handle, store, or transport non-petroleum oils other than animal fats and vegetable oils must plan for oil spill volumes for a small discharge. There is no USCG planning level that directly corresponds to EPA's ''small discharge.'' However, the USCG (at 33 CFR 154.545) has requirements to identify equipment to contain oil resulting from an operational discharge.

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4.0 Determining Response Resources Required for Medium Discharges—Petroleum oils and non-petroleum oils other than animal fats and vegetable oils

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4.2 Complexes that are regulated by EPA and the USCG must also consider planning quantities for the transportation-related transfer portion of the facility.

4.2.1 *Petroleum oils.* The USCG planning level that corresponds to EPA's ''medium discharge'' is termed ''the maximum most probable discharge''. The USCG rule found at 33 CFR part 154 defines ''the maximum most probable discharge'' as a discharge of 1,200 barrels (50,400 gallons) or 10 percent of the worst case discharge, whichever is less. Owners or operators of complexes that handle, store, or transport petroleum oils must compare spill volumes for a medium discharge and a maximum most probable discharge and plan for whichever quantity is greater.

4.2.2 *Non-petroleum oils other than animal fats and vegetable oils.* Owners or operators of complexes that handle, store, or transport non-petroleum oils other than animal fats and vegetable oils must plan for oil spill volumes for a medium discharge. For non-petroleum oils, there is no USCG planning level that directly corresponds to EPA's ''medium discharge.''

* * * * *

7.0 Calculating Planning Volumes for a Worst Case Discharge—Petroleum oils and non-petroleum oils other than animal fats and vegetable oils.

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7.2.1 * * * See sections 1.2.3 and 1.2.8 of this appendix for the definitions of non-persistent and persistent oils, respectively. * * *

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7.4 * * * The facility owner or operator shall ensure, by contract or other approved means as described in § 112.2, the availability of these resources. * * *

* * * * *

7.6.3 * * * The facility owner or operator shall ensure, by contract or other approved means as described in § 112.2, the availability of these resources. * * *

7.7 * * * Refer to section 11 of this appendix for information on the limitations on the use of chemical agents for inland and nearshore areas.

7.7.1 * * *

(1) * * * Procedures and strategies for responding to a worst case discharge to the maximum extent practicable; and

* * * * *

7.7.5 * * * The owner or operator of a facility that handles, stores, or transports non-petroleum oils other than animal fats and vegetable oils that does not have adequate fire fighting resources located at the facility or that cannot rely on sufficient local fire fighting resources must identify adequate fire fighting resources. The owner or operator shall ensure, by contract or other approved means as described in § 112.2, the availability of these resources. The response plan must also identify an individual located at the facility to work with the fire department for fires of these oils. * * *

8.0 Determining Response Resources Required for Small Discharges—Animal fats and vegetable oils

8.1 A facility owner or operator shall identify sufficient response resources available, by contract or other approved means as described in § 112.2, to respond to a small discharge of animal fats or vegetable oils. A small discharge is defined as any discharge volume less than or equal to 2,100 gallons, but not to exceed the calculated worst case discharge. The equipment must be designed to function in the operating environment at the point of expected use.

8.2 Complexes that are regulated by EPA and the USCG must also consider planning quantities for the marine transportation-related portion of the facility.

8.2.1 Owners or operators of complexes that handle, transport, or store only animal fats or vegetable oils must plan for a small discharge. There is no USCG planning level that directly corresponds to EPA's ''small discharge.'' Although the USCG does not have planning requirements for small discharges, they do have requirements (at 33 CFR 154.545) to identify equipment to

contain oil resulting from an operational discharge.

8.3 The response resources shall, as appropriate, include:

8.3.1 One thousand feet of containment boom (or, for complexes with marine transfer components, 1,000 feet of containment boom or two times the length of the largest vessel that regularly conducts oil transfers to or from the facility, whichever is greater), and a means of deploying it within 1 hour of the discovery of a discharge;

8.3.2 Oil recovery devices with an effective daily recovery capacity equal to the amount of oil discharged in a small discharge or greater which is available at the facility within 2 hours of the detection of a discharge; and

8.3.3 Oil storage capacity for recovered oily material indicated in section 12.2 of this appendix.

9.0 Determining Response Resources Required for Medium Discharges—Animal fats and vegetable oils

9.1 A facility owner or operator shall identify sufficient response resources available, by contract or other approved means as described in § 112.2, to respond to a medium discharge of animal fats or vegetable oils for that facility. This will require response resources capable of containing and collecting up to 36,000 gallons of oil or 10 percent of the worst case discharge, whichever is less. All equipment identified must be designed to operate in the applicable operating environment specified in Table 1 of this appendix.

9.2 Complexes that are regulated by EPA and the USCG must also consider planning quantities for the transportation-related transfer portion of the facility. The USCG planning level that corresponds to EPA's ''medium discharge'' is termed ''the maximum most probable discharge.'' The USCG revisions to 33 CFR part 154 define ''the maximum most probable discharge'' as a discharge of 1,200 barrels (50,400 gallons) or 10 percent of the worst case discharge, whichever is less. Owners or operators of complexes must compare spill volumes for a medium discharge and a maximum most probable discharge and plan for whichever quantity is greater.

9.2.1 Owners or operators of complexes that handle, store, or transport animal fats or vegetable oils must plan for oil spill volumes for a medium discharge. For non-petroleum oils, there is no USCG planning level that directly corresponds to EPA's ''medium discharge.'' Although the USCG does not have planning requirements for medium discharges, they do have requirements (at 33 CFR 154.545) to identify equipment to contain oil resulting from an operational discharge.

9.3 Oil recovery devices identified to meet the applicable medium discharge volume planning criteria must be located such that they are capable of arriving on-scene within 6 hours in higher volume port areas and the Great Lakes and within 12 hours in all other areas. Higher volume port areas and Great Lakes areas are defined in section 1.2 of Appendix C to this part.

9.4 Because rapid control, containment, and removal of oil are critical to reduce discharge impact, the owner or operator must determine response resources using an effective daily recovery capacity for oil recovery devices equal to 50 percent of the planning volume applicable for the facility as determined in section 9.1 of this appendix. The effective daily recovery capacity for oil recovery devices identified in the plan must be determined using the criteria in section 6 of this appendix.

9.5 In addition to oil recovery capacity, the plan shall, as appropriate, identify sufficient quantity of containment boom available, by contract or other approved means as described in § 112.2, to arrive within the required response times for oil collection and containment and for protection of fish and wildlife and sensitive environments. For further description of fish and wildlife and sensitive environments, see Appendices I, II, and III to DOC/NOAA's ''Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments'' (59 FR 14713, March 29, 1994) and the applicable ACP. While the Guidance does not set required quantities of boom for oil collection and containment, the response plan shall identify and ensure, by contract or other approved means as described in § 112.2, the availability of the quantity of boom identified in the plan for this purpose.

9.6 The plan must indicate the availability of temporary storage capacity to meet section 12.2 of this appendix. If available storage capacity is insufficient to meet this level, then the effective daily recovery capacity must be derated (downgraded) to the limits of the available storage capacity.

9.7 The following is an example of a medium discharge volume planning calculation for equipment identification in a higher volume port area: The facility's largest aboveground storage tank volume is 840,000 gallons. Ten percent of this capacity is 84,000 gallons. Because 10 percent of the facility's largest tank, or 84,000 gallons, is greater than 36,000 gallons, 36,000 gallons is used as the planning volume. The effective daily recovery capacity is 50 percent of the planning volume, or 18,000 gallons per day. The ability of oil recovery devices to meet this capacity must be calculated using the procedures in section 6 of this appendix. Temporary storage capacity available on-scene must equal twice the daily recovery capacity as indicated in section 12.2 of this appendix, or 36,000 gallons per day. This is the information the facility owner or operator must use to identify and ensure the availability of the required response resources, by contract or other approved means as described in § 112.2. The facility owner shall also identify how much boom is available for use.

10.0 Calculating Planning Volumes for a Worst Case Discharge—Animal fats and vegetable oils.

10.1 A facility owner or operator shall plan for a response to the facility's worst case discharge. The planning for on-water oil recovery must take into account a loss of some oil to the environment due to physical, chemical, and biological processes, potential increases in volume due to emulsification, and the potential for deposition of oil on the shoreline or on sediments. The procedures for animal fats and vegetable oils are discussed in section 10.7 of this appendix.

10.2 The following procedures must be used by a facility owner or operator in determining the required on-water oil recovery capacity:

10.2.1 The following must be determined: the worst case discharge volume of oil in the facility; the appropriate group(s) for the types of oil handled, stored, or transported at the facility (Groups A, B, C); and the facility's specific operating area. See sections 1.2.1 and 1.2.9 of this appendix for the definitions of animal fats and vegetable oils and groups thereof. Facilities that handle, store, or transport oil from different oil groups must calculate each group separately, unless the oil group constitutes 10 percent or less by volume of the facility's total oil storage capacity. This information is to be used with Table 6 of this appendix to determine the percentages of the total volume to be used for removal capacity planning. Table 6 of this appendix divides the volume into three categories: oil lost to the environment; oil deposited on the shoreline; and oil available for on water recovery.

10.2.2 The on-water oil recovery volume shall, as appropriate, be adjusted using the appropriate emulsification factor found in Table 7 of this appendix. Facilities that handle, store, or transport oil from different groups must compare the on-water recover volume for each oil group (unless the oil group constitutes 10 percent or less by volume of the facility's total storage capacity) and use the calculation that results in the largest on-water oil recovery volume to plan for the amount of response resources for a worst case discharge.

10.2.3 The adjusted volume is multiplied by the on water oil recovery resource mobilization factor found in Table 4 of this appendix from the appropriate operating area and response tier to determine the total on water oil recovery capacity in barrels per day that must be identified or contracted to arrive on-scene within the applicable time for each response tier. Three tiers are specified. For higher volume port areas, the contracted tiers of resources must be located such that they are capable of arriving on-scene within 6 hours for Tier 1, 30 hours for Tier 2, and 54 hours for Tier 3 of the discovery of a discharge. For all other rivers and canals, inland, nearshore areas, and the Great Lakes, these tiers are 12, 36, and 60 hours.

10.2.4 The resulting on water oil recovery capacity in barrels per day for each tier is used to identify response resources necessary to sustain operations in the applicable operating area. The equipment shall be capable of sustaining operations for the time period specified in Table 6 of this appendix. The facility owner or operator shall identify and ensure the availability, by contract or other approved means as described in § 112.2, of sufficient oil spill recovery devices to provide the effective daily oil recovery capacity required. If the required capacity exceeds the applicable cap specified in Table 5 of this appendix, then a facility owner or operator shall ensure, by contract or other approved means as described in § 112.2, only for the quantity of resources required to meet the cap, but shall identify

sources of additional resources as indicated in section 5.4 of this appendix. The owner or operator of a facility whose planning volume exceeded the cap in 1998 must make arrangements to identify and ensure the availability, by contract or other approved means as described in § 112.2, for additional capacity to be under contract by 2003, as appropriate. For a facility that handles multiple groups of oil, the required effective daily recovery capacity for each oil group is calculated before applying the cap. The oil group calculation resulting in the largest on water recovery volume must be used to plan for the amount of response resources for a worst case discharge, unless the oil group comprises 10 percent or less by volume of the facility's oil storage capacity.

10.3 The procedures discussed in sections 10.3.1–10.3.3 of this appendix must be used to calculate the planning volume for identifying shoreline cleanup capacity (for Groups A and B oils).

10.3.1 The following must be determined: the worst case discharge volume of oil for the facility; the appropriate group(s) for the types of oil handled, stored, or transported at the facility (Groups A or B); and the geographic area(s) in which the facility operates (i.e., operating areas). For a facility handling, storing, or transporting oil from different groups, each group must be calculated separately. Using this information, Table 6 of this appendix must be used to determine the percentages of the total volume to be used for shoreline cleanup resource planning.

10.3.2 The shoreline cleanup planning volume must be adjusted to reflect an emulsification factor using the same procedure as described in section 10.2.2 of this appendix.

10.3.3 The resulting volume shall be used to identify an oil spill removal organization with the appropriate shoreline cleanup capability.

10.4 A response plan must identify response resources with fire fighting capability appropriate for the risk of fire and explosion at the facility from the discharge or threat of discharge of oil. The owner or operator of a facility that handles, stores, or transports Group A or B oils that does not have adequate fire fighting resources located at the facility or that cannot rely on sufficient local fire fighting resources must identify adequate fire fighting resources. The facility owner or operator shall ensure, by contract or other approved means as described in § 112.2, the availability of these resources. The response plan must also identify an individual to work with the fire department for Group A or B oil fires. This individual shall also verify that sufficient well-trained fire fighting resources are available within a reasonable response time to a worst case scenario. The individual may be the qualified individual identified in the response plan or another appropriate individual located at the facility.

10.5 The following is an example of the procedure described in section 10.2 and 10.3 of this appendix. A facility with a 37.04 million gallon (881,904 barrel) capacity of several types of vegetable oils is located in the Inland Operating Area. The vegetable oil with the highest specific gravity stored at the facility is soybean oil (specific gravity 0.922, Group B vegetable oil). The facility has ten aboveground oil storage tanks with a combined total capacity of 18 million gallons (428,571 barrels) and without secondary containment. The remaining facility tanks are inside secondary containment structures. The largest aboveground oil storage tank (3 million gallons or 71,428 barrels) has its own secondary containment. Two 2.1 million gallon (50,000 barrel) tanks (that are not connected by a manifold) are within a common secondary containment tank area, which is capable of holding 4.2 million gallons (100,000 barrels) plus sufficient freeboard.

10.5.1 The worst case discharge for the facility is calculated by adding the capacity of all aboveground vegetable oil storage tanks without secondary containment (18.0 million gallons) plus the capacity of the largest aboveground storage tank inside secondary containment (3.0 million gallons). The resulting worst case discharge is 21 million gallons or 500,000 barrels.

10.5.2 With a specific worst case discharge identified, the planning volume for on-water recovery can be identified as follows:

Worst case discharge: 21 million gallons (500,000 barrels) of Group B vegetable oil
Operating Area: Inland
Planned percent recovered floating vegetable oil (from Table 6, column Nearshore/Inland/Great Lakes): Inland, Group B is 20%
Emulsion factor (from Table 7): 2.0
Planning volumes for on-water recovery:
21,000,000 gallons x .2 x 2.0 = 8,400,000 gallons or 200,000 barrels.

Determine required resources for on-water recovery for each of the three tiers using mobilization factors (from Table 4, column Inland/Nearshore/Great Lakes)

Inland operating area	Tier 1	Tier 2	Tier 3
Planning volume on water X	.15	.25	.40
Estimated Daily Recovery Capacity (bbls)	30,000	50,000	80,000

10.5.3 Because the requirements for On-Water Recovery Resources for Tiers 1, 2, and 3 for inland Operating Area exceed the caps identified in Table 5 of this appendix, the facility owner will contract for a response of 12,500 barrels per day (bpd) for Tier 1, 25,000 bpd for Tier 2, and 50,000 bpd for Tier 3. Resources for the remaining 17,500 bpd for Tier 1, 25,000 bpd for Tier 2, and 30,000 bpd for Tier 3 shall be identified but need not be contracted for in advance.

10.5.4 With the specific worst case discharge identified, the planning volume of onshore recovery can be identified as follows:

Worst case discharge: 21 million gallons (500,000 barrels) of Group B vegetable oil
Operating Area: Inland
Planned percent recovered floating vegetable oil from onshore (from Table 6, column
Nearshore/Inland/Great Lakes): Inland, Group B is 65%
Emulsion factor (from Table 7): 2.0
Planning volumes for shoreline recovery:
21,000,000 gallons x 0.65 x 2.0 =27,300,000 gallons or 650,000 barrels

10.5.5 The facility owner or operator shall, as appropriate, also identify or contract for quantities of boom identified in the response plan for the protection of fish and wildlife and sensitive environments within the area potentially impacted by a worst case discharge from the facility. For further description of fish and wildlife and sensitive environments, see Appendices I, II, and III to DOC/NOAA's ''Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments,'' (see Appendix E to this part, section 1.1, for availability) and the applicable ACP. Attachment C–III to Appendix C provides a method for calculating a planning distance to fish and wildlife and sensitive environments and public drinking water intakes that may be adversely affected in the event of a worst case discharge.

10.6 The procedures discussed in sections 10.6.1–10.6.3 of this appendix must be used to determine appropriate response resources for facilities with Group C oils.

10.6.1 The owner or operator of a facility that handles, stores, or transports Group C oils shall, as appropriate, identify the response resources available by contract or other approved means, as described in § 112.2. The equipment identified in a response plan shall, as appropriate, include:

(1) Sonar, sampling equipment, or other methods for locating the oil on the bottom or suspended in the water column;

(2) Containment boom, sorbent boom, silt curtains, or other methods for containing the oil that may remain floating on the surface or to reduce spreading on the bottom;

(3) Dredges, pumps, or other equipment necessary to assess the impact of such discharges;

(4) Equipment necessary to assess the impact of such discharges; and

(5) Other appropriate equipment necessary to respond to a discharge involving the type of oil handled, stored, or transported.

10.6.2 Response resources identified in a response plan for a facility that handles, stores, or transports Group C oils under section 10.6.1 of this appendix shall be capable of being deployed on scene within 24 hours of discovery of a discharge.

10.6.3 A response plan must identify response resources with fire fighting capability. The owner or operator of a facility that handles, stores, or transports Group C

oils that does not have adequate fire fighting resources located at the facility or that cannot rely on sufficient local fire fighting resources must identify adequate fire fighting resources. The owner or operator shall ensure, by contract or other approved means as described in § 112.2, the availability of these resources. The response plan shall also identify an individual located at the facility to work with the fire department for Group C oil fires. This individual shall also verify that sufficient well-trained fire fighting resources are available within a reasonable response time to respond to a worst case discharge. The individual may be the qualified individual identified in the response plan or another appropriate individual located at the facility.

10.7 The procedures described in sections 10.7.1–10.7.5 of this appendix must be used to determine appropriate response plan development and evaluation criteria for facilities that handle, store, or transport animal fats and vegetable oils. Refer to section 11 of this appendix for information on the limitations on the use of chemical agents for inland and nearshore areas.

10.7.1 An owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils must provide information in the response plan that identifies:

(1) Procedures and strategies for responding to a worst case discharge of animal fats and vegetable oils to the maximum extent practicable; and

(2) Sources of the equipment and supplies necessary to locate, recover, and mitigate such a discharge.

10.7.2 An owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils must ensure that any equipment identified in a response plan is capable of operating in the geographic area(s) (i.e., operating environments) in which the facility operates using the criteria in Table 1 of this appendix. When evaluating the operability of equipment, the facility owner or operator must consider limitations that are identified in the appropriate ACPs, including:

(1) Ice conditions;

(2) Debris;

(3) Temperature ranges; and

(4) Weather-related visibility.

10.7.3. The owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils must identify the response resources that are available by contract or other approved means, as described in § 112.2. The equipment described in the response plan shall, as appropriate, include:

(1) Containment boom, sorbent boom, or other methods for containing oil floating on the surface or to protect shorelines from impact;

(2) Oil recovery devices appropriate for the type of animal fat or vegetable oil carried; and (3) Other appropriate equipment necessary to respond to a discharge involving the type of oil carried.

10.7.4 Response resources identified in a response plan according to section 10.7.3 of this appendix must be capable of commencing an effective on-scene response within the applicable tier response times in section 5.3 of this appendix.

10.7.5 A response plan must identify response resources with fire fighting capability. The owner or operator of a facility that handles, stores, or transports animal fats and vegetable oils that does not have adequate fire fighting resources located at the facility or that cannot rely on sufficient local fire fighting resources must identify adequate fire fighting resources. The owner or operator shall ensure, by contract or other approved means as described in § 112.2, the availability of these resources. The response plan shall also identify an individual located at the facility to work with the fire department for animal fat and vegetable oil fires. This individual shall also verify that sufficient well-trained fire fighting resources are available within a reasonable response time to respond to a worst case discharge. The individual may be the qualified individual identified in the response plan or another appropriate individual located at the facility.

11.0 Determining the Availability of Alternative Response Methods

11.1 For chemical agents to be identified in a response plan, they must be on the NCP Product Schedule that is maintained by EPA. (Some States have a list of approved dispersants for use within State waters. Not all of these State-approved dispersants are listed on the NCP Product Schedule.)

11.2 Identification of chemical agents in the plan does not imply that their use will be authorized. Actual authorization will be governed by the provisions of the NCP and the applicable ACP.

12.0 Additional Equipment Necessary to Sustain Response Operations

12.1 A facility owner or operator shall identify sufficient response resources available, by contract or other approved means as described in § 112.2, to respond to a medium discharge of animal fats or vegetables oils for that facility. This will require response resources capable of containing and collecting up to 36,000 gallons of oil or 10 percent of the worst case discharge, whichever is less. All equipment identified must be designed to operate in the applicable operating environment specified in Table 1 of this appendix.

12.2 A facility owner or operator shall evaluate the availability of adequate temporary storage capacity to sustain the effective daily recovery capacities from equipment identified in the plan. Because of the inefficiencies of oil spill recovery devices, response plans must identify daily storage capacity equivalent to twice the effective daily recovery capacity required on-scene. This temporary storage capacity may be reduced if a facility owner or operator can demonstrate by waste stream analysis that the efficiencies of the oil recovery devices, ability to decant waste, or the availability of alternative temporary storage or disposal locations will reduce the overall volume of oily material storage requirement.

12.3 A facility owner or operator shall ensure that response planning includes the capability to arrange for disposal of recovered oil products. Specific disposal procedures will be addressed in the applicable ACP.

13.0 References and Availability

13.1 All materials listed in this section are part of EPA's rulemaking docket and are located in the Superfund Docket, 1235 Jefferson Davis Highway, Crystal Gateway 1, Arlington, Virginia 22202, Suite 105 (Docket Numbers SPCC–2P, SPCC–3P, and SPCC–9P). The docket is available for inspection between 9:00 a.m. and 4:00 p.m., Monday through Friday, excluding Federal holidays. Appointments to review the docket can be made by calling 703–603–9232. Docket hours are subject to change. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

13.2 The docket will mail copies of materials to requestors who are outside the Washington, DC metropolitan area. Materials may be available from other sources, as noted in this section. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services. The RCRA/Superfund Hotline at 800–424–9346 may also provide additional information on where to obtain documents. To contact the RCRA/Superfund Hotline in the Washington, DC metropolitan area, dial 703–412–9810. The Telecommunications Device for the Deaf (TDD) Hotline number is 800–553–7672, or, in the Washington, DC metropolitan area, 703–412–3323.

13.3 Documents

(1) National Preparedness for Response Exercise Program (PREP). The PREP draft guidelines are available from United Coast Guard Headquarters (G-MEP–4), 2100 Second Street, SW., Washington, DC 20593. (See 58 FR 53990, October 19, 1993, Notice of Availability of PREP Guidelines).

(2) ''Guidance for Facility and Vessel Response Plans: Fish and Wildlife and Sensitive Environments' (published in the **Federal Register** by DOC/NOAA at 59 FR 14713, March 29, 1994.). The guidance is available in the Superfund Docket (see sections 13.1 and 13.2 of this appendix).

(3) ASTM Standards. ASTM F 715, ASTM F 989, ASTM F 631–80, ASTM F 808–83 (1988). The ASTM standards are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, PA 19103–1187.

(4) Response Plans for Marine Transportation-Related Facilities, Interim Final Rule. Published by USCG, DOT at 58 FR 7330, February 5, 1993.

8. Amend the Tables to Appendix E to Part 112 by revising Table 2 and adding Tables 6 and 7 to read as follows:

TABLE 2 TO APPENDIX E—REMOVAL CAPACITY PLANNING TABLE FOR PETROLEUM OILS AND NON-PETROLEUM OILS OTHER THAN ANIMAL FATS AND VEGETABLE OILS

Spill location	Rivers and canals			Nearshore/inland		
Sustainability of on-water oil recovery	3 days			4 days		
Oil Group[1]	Percent natural dissipation	Percent recovered floating oil	Percent oil onshore	Percent natural dissipation	Percent recovered floating oil	Percent oil onshore
1 Non-persistent oils	80	10	10	80	20	10
2 Light crudes	40	15	45	50	50	30
3 Medium crudes and fuels	20	15	65	30	50	50
4 Heavy crudes and fuels	5	20	75	10	50	70
Group 5 oils are defined in section 1.2.8 of this appendix; the response resource considerations are outlined in section 7.6 of this appendix.						

[1] Petroleum oil, non-petroleum oil, animal fat, and vegetable oil are defined in § 112.2

* * * * *

TABLE 6 TO APPENDIX E—REMOVAL CAPACITY PLANNING TABLE FOR ANIMAL FATS AND VEGETABLE OILS

Spill location	Rivers and canals			Nearshore/inland Great Lakes		
Sustainability of on-water oil recovery	3 days			4 days		
Oil group[1]	Percent natural loss	Percent recovered floating oil	Percent recovered oil from onshore	Percent natural loss	Percent recovered floating oil	Percent recovered oil from onshore
Group A	40	15	45	50	20	30
Group B	20	15	65	30	20	50
Group C oils are defined in section 1.2.1 and 1.2.9 of this appendix; the response resource procedures are discussed in section 10.6 of this appendix.						

[1] Substances with a specific gravity greater than 1.0 generally sink below the surface of the water. Response resource considerations are outlined in section 8.6 of this appendix. The owner or operator of the facility is responsible for determining appropriate response resources for Group C oils including locating oil on the bottom or suspended in the water column; containment boom or other appropriate methods for containing oil that may remain floating on the surface; and dredges, pumps, or other equipment to recover animal fats or vegetable oils from the bottom and shoreline.

TABLE 7 TO APPENDIX E—EMULSIFICATION FACTORS FOR ANIMAL FATS AND VEGETABLE OILS

Oil Group[1]	
Group A	1.0
Group B	2.0
Group C oils are defined in section 1.2.1 and 1.2.9 of this appendix; the response resource procedures are discussed in section 10.6 of this appendix.	

[1] Substances with a specific gravity greater than 1.0 generally sink below the surface of the water. Response resource considerations are outlined in section 8.6 of this appendix. The owner or operator of the facility is responsible for determining appropriate response resources for Group C oils including locating oil on the bottom or suspended in the water column; containment boom or other appropriate methods for containing oil that may remain floating on the surface; and dredges, pumps, or other equipment to recover animal fats or vegetable oils from the bottom and shoreline.

9. Amend the attachments to Appendix E by revising Attachment E–1 and Attachment E–1 Example and adding Attachment E–2 and Attachment E–2 Example to read as follows:

BILLING CODE 6560–50–P

Attachment E-1 --
Worksheet to Plan Volume of Response Resources for Worst Case Discharge - Petroleum Oils and Non-Petroleum Oils Other than Animal Fats and Vegetable Oils

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D) [ ] (A)

Step (B) Oil Group[1] (Table 3 and section 1.2 of this appendix) . . . . . [ ]

Step (C) Operating Area (choose one). . . [ ] Nearshore /Inland Great Lakes or [ ] Rivers and Canals

Step (D) Percentages of Oil (Table 2 of this appendix)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
[ ] (D1)	[ ] (D2)	[ ] (D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step(D2) x Step(A)}}{100}$ [ ] (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step (D3) x Step (A)}}{100}$ [ ] (E2)

Step (F) Emulsification Factor (Table 3 of this appendix) . . . . . [ ] (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor
(Table 4 of this appendix)

Tier 1	Tier 2	Tier 3
(G1)	(G2)	(G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) . . . . | | Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of this appendix)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

Attachment E-1 Example --
Worksheet to Plan Volume of Response Resources for Worst Case Discharge - Petroleum Oils and Non-Petroleum Oils Other than Animal Fats and Vegetable Oils

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D) . . . . . 170,000 (A)

Step (B) Oil Group[1] (Table 3 and section 1.2 of this appendix) 4

Step (C) Operating Area (choose one). [X] Nearshore /Inland Great Lakes [ ] or Rivers and Canals

Step (D) Percentages of Oil (Table 2 of this appendix)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
10	50	70
(D1)	(D2)	(D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step(D2) x Step(A)}}{100}$ 85,000 (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step(D3) x Step(A)}}{100}$ 119,000 (E2)

Step (F) Emulsification Factor (Table 3 of this appendix) . . . . . 1.4 (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor
(Table 4 of this appendix)

Tier 1	Tier 2	Tier 3
0.15	0.25	0.40
(G1)	(G2)	(G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
17,850	29,750	47,600
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) 166,600

Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of this appendix)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
10,000	20,000	40,000
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
7,850	9,750	7,600
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

Attachment E-2 --
Worksheet to Plan Volume of Response Resources
for Worst Case Discharge - Animal Fats and Vegetable Oils

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D) [ ] (A)

Step (B) Oil Group[1] (Table 7 and section 1.2 of this appendix) . . . . . [ ]

Step (C) Operating Area (choose one) . . . [ ] Nearshore /Inland Great Lakes [ ] or Rivers and Canals

Step (D) Percentages of Oil (Table 6 of this appendix)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
[ ]	[ ]	[ ]
(D1)	(D2)	(D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step(D2) x Step(A)}}{100}$ [ ] (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step (D3) x Step (A)}}{100}$ [ ] (E2)

Step (F) Emulsification Factor (Table 7 of this appendix) . . . . . [ ] (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor
(Table 4 of this appendix)

Tier 1	Tier 2	Tier 3
(G1)	(G2)	(G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) . . . . | | Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of this appendix)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

Attachment E-2 Example --
Worksheet to Plan Volume of Response Resources
for Worst Case Discharge - Animal Fats and Vegetable Oils

Part I Background Information

Step (A) Calculate Worst Case Discharge in barrels (Appendix D) . . . . . 500,000 (A)

Step (B) Oil Group[1] (Table 7 and section 1.2 of this appendix) . . . . . B

Step (C) Operating Area (choose one) [X] Nearshore /Inland Great Lakes [ ] or Rivers and Canals

Step (D) Percentages of Oil (Table 6 of this appendix)

Percent Lost to Natural Dissipation	Percent Recovered Floating Oil	Percent Oil Onshore
30 (D1)	20 (D2)	50 (D3)

Step (E1) On-Water Oil Recovery $\frac{\text{Step (D2)} \times \text{Step (A)}}{100}$ = 100,000 (E1)

Step (E2) Shoreline Recovery $\frac{\text{Step (D3)} \times \text{Step (A)}}{100}$ = 250,000 (E2)

Step (F) Emulsification Factor (Table 7 of this appendix) . . . . . 2.0 (F)

Step (G) On-Water Oil Recovery Resource Mobilization Factor
(Table 4 of this appendix)

Tier 1	Tier 2	Tier 3
0.15	0.25	0.40
(G1)	(G2)	(G3)

[1] A facility that handles, stores, or transports multiple groups of oil must do separate calculations for each oil group on site except for those oil groups that constitute 10 percent or less by volume of the total oil storage capacity at the facility. For purposes of this calculation, the volumes of all products in an oil group must be summed to determine the percentage of the facility's total oil storage capacity.

Part II On-Water Oil Recovery Capacity (barrels/day)

Tier 1	Tier 2	Tier 3
30,000	50,000	80,000
Step (E1) x Step (F) x Step (G1)	Step (E1) x Step (F) x Step (G2)	Step (E1) x Step (F) x Step (G3)

Part III Shoreline Cleanup Volume (barrels) 500,000
Step (E2) x Step (F)

Part IV On-Water Response Capacity By Operating Area
(Table 5 of this appendix)
(Amount needed to be contracted for in barrels/day)

Tier 1	Tier 2	Tier 3
12,500	25,000	50,000
(J1)	(J2)	(J3)

Part V On-Water Amount Needed to be Identified, but not Contracted for in Advance (barrels/day)

Tier 1	Tier 2	Tier 3
17,500	25,000	30,000
Part II Tier 1 - Step (J1)	Part II Tier 2 - Step (J2)	Part II Tier 3 - Step (J3)

NOTE: To convert from barrels/day to gallons/day, multiply the quantities in Parts II through V by 42 gallons/barrel.

10. Amend Appendix F to Part 112 by revising the phrase ''section 10'' to read ''section 13'' in the last sentence of section 1.3(4), in footnote 2 to section 1.4.2, in section 1.8.2(A), and in footnote 3 of the attachments to appendix F.

[FR Doc. 99–8275 Filed 4–2–99; 12:33 pm]

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Federal Register

Thursday
April 8, 1999

Part III

Department of Justice

Bureau of Prisons

28 CFR Part 504
Acceptance of Donations; Final Rule

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Part 504

BOP–1075–F

RIN 1120–AA71

Acceptance of Donations

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons is removing from the Code of Federal Regulations obsolete regulations concerning the acceptance of donations.

EFFECTIVE DATE: April 8, 1999.

ADDRESSES: Rules Unit, Office of General Counsel, Bureau of Prisons, HOLC Room 754, 320 First Street, NW., Washington, DC 20534.

FOR FURTHER INFORMATION CONTACT: Roy Nanovic, Office of General Counsel, Bureau of Prisons, phone (202) 514–6655.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is removing its regulations on the acceptance of donations (28 CFR part 504). A final rule on this subject was published in the **Federal Register** September 22, 1989 (54 FR 39094) and was amended November 17, 1993 (58 FR 60768).

Authority to accept donations for use by the Bureau of Prisons or Federal Prison Industries, Inc. was delegated by the Attorney General to the Director of the Bureau of Prisons in 28 CFR 0.96(s). This delegation was rescinded on January 28, 1999 (64 FR 4295). The Bureau is accordingly removing its regulations on the subject.

Because an immediate rescission is required pursuant to the change in delegated authority, the Bureau finds good cause for exempting the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment, and delay in effective date. Members of the public may submit comments concerning this rule by writing to the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

Executive Order 12866

This rule falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 12612

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

Regulatory Flexibility Act

The Director of the Bureau of Prisons, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and by approving it certifies that this regulation will not have a significant economic impact upon a substantial number of small entities for the following reasons: This rule pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Roy Nanovic, Rules Unit, Office of General Counsel, Bureau of Prisons, 320 First St., Washington, DC 20534; telephone (202) 514–6655.

List of Subjects in 28 CFR Part 504

Administrative practice and procedure, Prisoners.

Kathleen Hawk Sawyer,

Director, Bureau of Prisons.

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(o), subchapter A of 28 CFR, chapter V is amended as set forth below.

SUBCHAPTER A—GENERAL MANAGEMENT AND ADMINISTRATION

PART 504—[REMOVED]

1. In 28 CFR Subchapter A, Part 504 is removed.

[FR Doc. 99–8681 Filed 4–7–99; 8:45 am]

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LIST OF PUBLIC LAWS

This is 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/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.J. Res. 26/P.L. 106–14

Providing for the reappointment of Barber B. Conable, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 6, 1999; 113 Stat. 24)

H.J. Res. 27/P.L. 106–15

Providing for the reappointment of Dr. Hanna H. Gray as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 6, 1999; 113 Stat. 25)

H.J. Res. 28/P.L. 106–16

Providing for the reappointment of Wesley S. Williams, Jr. as a citizen regent of the Board of Regents of the Smithsonian Institution. (Apr. 6, 1999; 113 Stat. 26)

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Women's Business Center Amendments Act of 1999 (Apr. 6, 1999; 113 Stat. 27)

Last List April 7, 1999.

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